Supreme Court, U.S.
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No. 91-5843

In The

Supreme Court of the United States

October Term, 1991

DENNIS SOCHOR,

Petitioner,

vs.

STATE OF FLORIDA,

Respondent.

On Writ Of Certiorari
To The Florida Supreme Court

JOINT APPENDIX
VOLUME I

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Indictment.	October 9, 1986
Motion to Declare Section 921.141, Florida Statutes Unconstitutional Re: Aggravating and Mitigating Circumstances.	November 13, 1986
Hearing on capital motions	December 1, 1986
July trial (guilt phase).	October 13, 1987 through October 20, 1987
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Imposition of sentence.	November 2, 1987
Notice of appeal.	November 3, 1987
Decision of Florida Supreme Court.	May 2, 1991
Order denying rehearing.	June 18, 1991

IN THE NAME AND BY THE AUTHORITY OF THE STATE OF FLORIDA

In the Circuit Court of the Seventeenth Judicial Circuit of the State of Florida

For Broward County, at the SPRING 1986 Term thereof, on the 9th day of October, in the year of our Lord One Thousand Nine Hundred and Eighty-Six, to wit: The Grand Jurors of the State of Florida, inquiring in and for the County of Broward, State of Florida, upon their oaths do present that

COUNT I

DENNIS SOCHOR

on the 1st day of January, in the year of our Lord One Thousand Nine Hundred and Eighty-Two, in the County of Broward, State of Florida, did then and there unlawfully and feloniously and from a premeditated design to effect the death of a human being, PATRICIA MARIE GIFFORD, did kill and murder the said PATRICIA MARIE GIFFORD, by asphyxiation, against the form of the statute in such case pursuant to Section 782.04(1) of the Florida Statutes and

COUNT II

that DENNIS SOCHOR on the 1st day of January, in the year of our Lord One Thousand Nine Hundred and Eighty-Two, in the County of Broward, State of Florida,

did unlawfully and forcibly, secretly, or by threat, confine, abduct or imprison PATRICIA MARIE GIFFORD against her will and without lawful authority with intent to commit or facilitate commission of a felony, to-wit: sexual battery,

against the form of the statute in such case pursuant to Section 787.01 of the Florida Statutes, made and provided to the evil example of all others in the like case offending, and against the peace and dignity of the State of Florida.

A TRUE BILL:

/s/ John J. Flynn
FOREMAN

I HEREBY CERTIFY that I have advised the Grand Jury returning the Indictment as authorized and required by law.

/s/ (illegible)
Assistant State Attorney for the Seventeenth Judicial Circuit of the State of Florida, Prosecuting for said State.

IN THE CIRCUIT COURT OF
THE 17TH JUDICIAL CIRCUIT,
IN AND FOR BROWARD
COUNTY, FLORIDA

THE STATE OF FLORIDA,) Case No. 86-15270CF

vs.) Judge: SEAY

DENNIS SOCHOR,)

Defendant.)

_____)

MOTION FOR STATEMENT OF AGGRAVATING CIRCUMSTANCES

The Defendant, Dennis Sochor, by and through the undersigned attorney, moves this Court to order the State to provide the Defendant with the precise grounds on which the State seeks the death penalty in this case.

A. No notification of particular statutory aggravating circumstances which the State would seek to establish was contained in the Indictment charging the Defendant.

B. No notice has been given as to what specific aggravating circumstances this Court or the State intend to consider.

C. Absent the notification of aggravating circumstances, the use of these aggravating circumstances to sentence the Defendant to die would violate the Accusation Clause of the Sixth Amendment and the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States and Article I, Section 15 (a) of the Constitution of the State of Florida.

D. Utilization of aggravating circumstances not contained in the Indictment or in any subsequent form of notice deprives the Defendant of essential safeguards "designed to limit the unbridled exercise of judicial discretion in cases where the ultimate penalty is possible." *Provence v. State*, 337 So.2d 783 (Fla. 1976).

E. Failure to give timely and adequate notice of the precise grounds on which the State seeks the death penalty, or on which the Court would consider imposing the death penalty, deprives the Defendant of a fair sentencing hearing, with the Defendant being given a meaningful opportunity to rebut the aggravating circumstances. Thus, the Defendant is faced with the posture of having his Sixth Amendment Right to Effective Assistance of Counsel thwarted.

Without notice, the Defendant or his counsel are unable to prepare and present any defensive evidence and arguments to meet the State's contentions as to what is an aggravated circumstance and the issues which the Court may regard as controlling on the question of life or death.

F. Florida Standard Jury Instructions in criminal cases deal with instructions in capital cases. The instruction on p. 76 instruct the jury to consider the evidence already heard at trial. Therefore, the only way to confront and rebut aggravating circumstances during the course of the guilt phase trial is to give the Defendant and his counsel notice thereof in advance.

G. Proper and advance notification of all aggravating circumstances is essential to permit the Defendant

through counsel to effectively deal with the allegations during trial.

H. The Florida Supreme Court in *Barclay* and *Dougan v. State*, 362 So.2d 657 (Fla. 1978) vacated the death penalty and remanded the cause for a new Sentencing Hearing since it was essential to permit Defense Counsel to have access to all information and sufficient time to rebut in a meaningful manner.

This decision is consistent with the U.S. Supreme Court's decision in *Gardner v. Florida*, 430 U.S. 349, 97 S.Ct. 1107 (1977). There the Court said at page 1205 that "it is now clear that the sentencing process as well as the trial itself must satisfy the requirements of the Due Process Clause."

> . . . "Our belief that debate between adversaries is often essential to the truth-seeking function of trials require us also to recognize the importance of giving counsel an opportunity to comment on facts which may influence the sentencing decision in capital cases."

Thus a denial of aggravating circumstances violates the Due Process Clause as interpreted in *Gardner*.

I. The U.S. Surpeme [sic] Court in *Gregg v. Georgia*, 428 U.S. 153, 96 S.Ct. 2909, (1976) upheld the constitutionality of the Georgia Death Law. The Georgia Law requires as shown at p. 2920 of *Gregg*:

> "the judge (or jury) shall hear additional evidence in extenuation, mitigation, and aggravation of punishment, including the record of any prior criminal convictions and pleas of guilty or pleas of nolo contendere of the defendant, or the

> absence of any prior conviction and pleas: *Provided, however, that only such evidence in aggravation as the State has made known to the defendant prior to his trial shall be admissible.* The judge (or jury) shall also hear argument by defendant or his counsel and the prosecuting attorney. . . . regarding the punishment to be imposed. S27-2503. (Supp. 1975): (underlining added.)

This provision of the Georgia Statute as approved by the Supreme Court is essential to effectuate the aforementioned constitutional safeguards.

WHEREFORE, the Defendant requests this Court to order the State to file a notification declaring what statutory aggravating grounds the State intends to prove to sustain the request for death. Also, the Defendant requests this Court to inform the Defendant of what aggravating grounds this Court would consider to impose the penalty of death.

I HEREBY CERTIFY that a true and correct copy of the foregoing Motion for Statement of Aggravating Circumstances has been furnished by hand to the Office of the State Attorney, Broward County Courthouse, Fort Lauderdale, Florida, this 13 day of November 1986.

Respectfully submitted,

ALAN H. SCHREIBER
Public Defender
17th Judicial Circuit

/s/ TG
Thomas Gallagher
Assistant Public Defender
Attorney for Defendant

IN THE CIRCUIT COURT OF THE
17TH JUDICIAL CIRCUIT, IN AND
FOR BROWARD COUNTY, FLORIDA

Case No. 86-15270CF

Judge: SEAY

(Caption Omitted in Printing)

MOTION TO DECLARE SECTION 921.141, FLORIDA STATUTES UNCONSTITUTIONAL RE: AGGRAVATING AND MITIGATING CIRCUMSTANCES

COMES NOW the Defendant, Dennis Sochor, by and through the undersigned attorney, moves this Honorable Court to dismiss the indictment herein and to declare Florida Statute 921.141 unconstitutional. As grounds, the defendant states the following:

1. Florida Statute 921.141 is unconstitutional on its face in that it is violative of the Eighth and Fourteenth Amendments to the Constitution of the United States and Article I, Section 9 and 17 of the Constitution of the State of Florida. In support of this allegation the defendant would state:

A) The aggravating and mitigating circumstances as enumerated in Florida Statute 921.141 are impermissibly vague and overbroad.

The first aggravating circumstance listed is that the capital felony was committed by a person under sentence of imprisonment. This circumstance is overbroad in that it makes no distinction between a person imprisoned for a non-violent crime and one imprisoned for a violent crime.

Aggravating circumstance (b) relating to the previous conviction of another capital felony or a felony involving the use or threat of violence also suffers from overbreadth in that the circumstance surrounding the prior felony is not considered.

Aggravating circumstance (c) involving the knowing creation of a *great* risk to many persons is irrefutably vague simply due to its qualifying adjectives. Furthermore, although the intent of the Legislature was to direct this circumstances [sic] toward hijacking and bombings, this circumstances [sic] has been applied so broadly as to encompass almost any homicide.

Aggravating circumstance (d) involves felony murder, This particular circumstance is factually overbroad in that a capital felony committed during the enumerated felonies has an *automatic* aggravating circumstances [sic] and, therefore, carries with it a presumption of death without regard to the individual facts surrounding each case. Consideration of this aggravating circumstance could lead to a sentence of death which is totally disproportionate to the Defendant's conduct. "A punishment is excessive and unconstitutional if it is grossly out of proportion to the severity if the crime." *Coker v. Georgia*, 97 S.Ct. 2861 (1977). Pursuant to this circumstance a "wheelman", whose co-defendant accidentally kills someone during the commission of an enumerated felony would presumptively and automatically be considered for a death sentence, while a cold-blooded pre-meditated murder could conceivably be exempt from any aggravating circumstance. The arbitrariness of this circumstance is then evident.

Aggravating circumstances (e) and (g) are vague and overbroad as to render consistent application impossible. Aggravating circumstances [sic] (e) relates to a capital felony committed to avoid lawful arrest or to effectuate an escape from custody and circumstance (g) involves the disruption of the lawful exercise of any governmental function or the enforcement of laws. Examination of recent cases reveals that the silencing of a witness has been considered as giving rise to aggravating circumstances (e) and (g), *Meeks v. State*, 336 So.2d 1142 (Fla. 1976), as giving rise only to circumstance (e) *Knight v. State*, 338 So.2d 201 (Fla. 1976), and as giving rise to no aggravating circumstance, *Gibson v. State*, 351 So.2d 948 (Fla. 1977).

Aggravating circumstances [sic] (h) applies where the capital felony is especially cruel, heinous or atrocious. Almost any capital felony would appear especially cruel, heinous and atrocious to the layman, particularly any felony murder. Examination of the widespread application of this circumstance indicates that reasonable and consistent application is impossible. This standard is vague and overbroad and provides no basis for distinguishing one factual situation from another. *Godfrey v. Georgia*, 446 U.S. 420 (1980).

The mitigating circumstances enumerated in the statute are vague and overbroad as well. The qualifying adjectives used to describe the circumstances unconstitutionally limit the mitigating factors to be considered and foster an arbitrary application.

B) Florida Statute 921.141 is also unconstitutional on its face in that it is violative of the mandate of the

United States Supreme Court as expressed in *Lockett v. Ohio*, 438 U.S. 586, 98 S.Ct. 2964 (1978), which requires that the defendant be allowed to present *all* evidence relevant to the mitigation of sentence.

Florida Statute 921.141 expressly limits applicable mitigating circumstances to those enumerated in sub-section (6). Sub-section (6) expressly states "mitigating circumstances *shall* be the following" (emphasis added). Sub-section (2) states "that the jury shall deliberate and render an advisory sentence to the court based on . . . (B) Whether sufficient mitigating circumstances exist as *enumerated* in sub-section (6) which outweigh the aggravating circumstances found to exist. (emphasis added).

Examination of the legislative history of §921.141 clearly shows that the intent of the legislature was to limit both aggravating and mitigating circumstances so as to avoid the purely discretionary and arbitrary sentencing standards condemned in *Furman v. Georgia*, 408 U.S. 238 (1972).

Just prior to Furman, the legislature had passed a new capital sentencing law permitting consideration of mitigating circumstances "including but not limited to" a list of factors enumerated in the statute. Laws of Florida, Chapter 72-72 (1972). The statute took effect on October 1, 1972, but was short lived as a result of *Furman*. The legislature determined that unguided discretion was precluded in the aftermath of *Furman* and therefore abandoned Chapter 72-72 in favor of the present Florida Statute 921.141.

Pursuant to the obvious intent of the legislature and the plain language of the statute, the Florida Supreme Court held in *Cooper v. State*, 336 So.2d 1133 (Fla. 1976):

> The sole issue in a sentencing hearing under Section 921.141, Florida Statutes (1975), is to examine in each case the itemized aggravating and mitigating circumstances. Evidence concerning other matters have no place in that proceeding any more than purely speculative matters calculated to influence a sentence through emotional appeal. Such evidence threatens the proceeding with the undisciplined discretion condemned in *Furman v. Georgia*, 408 U.S. 238, 92 S.Ct. 2726, 33 L.Ed. 2d 346 (172) [sic].
>
> The legislative intent to avoid condemned arbitrariness pervades the statute. Section 921.141(2) requires the jury to render its advisory sentence "upon the following matters: (a) Whether sufficient aggravating circumstances exist *as enumerated* in subsection (6); (b) Whether sufficient mitigating circumstances exist as enumerated in subsection (7), which outweigh the aggravating circumstances found to exist . . . " (emphasis added). This limitation is repeated in Section 921.141 (3), governing the trial court's decision on the penalty. Both sections 921.141 (6) and 921.141 (7) begin with words of mandatory limitation. This may appear to be narrowly harsh, but under *Furman undisciplined* discretion is abhorrent whether operating for or against the death penalty.

The Court went on to say, "In any event the legislature chose to list the mitigating circumstances which it judged to be reliable for determining the appropriateness

of a death penalty for the most aggravated and unmitigated of serious crimes, and *we are not free to expand* the list. *Cooper v. State, supra* at 1139 (emphasis added).

The Supreme Court of Florida, in response to *Lockett v. Ohio, supra*, attempted to retreat from the unqualified pronouncement expressed in *Cooper*. In *Songer v. State*, 365 So.2d 696 (Fla. 1979) the Supreme Court said that in *Cooper* it was concerned, not with whether evidence proffered in mitigation came within the enumerated mitigating factors, but rather with whether the proffered evidence was probative. The above excerpt from *Cooper* belies this position. Furthermore, whatever *Songer* means by "probative", any such qualifying limitation upon the presentment of evidence in mitigation conflicts with the mandate of the United States Supreme Court as expressed in *Lockett* and render §921.141 unconstitutional.

The continuing vitality of *Cooper* is evidence [sic] by the opinion filed in *Hargrave v. State*, 366 So.2d 1 (Fla. 1978), wherein the majority concluded that the defendant's psychological deficiencies did not provide "a sound basis for establishment of the statutory mitigating circumstances". *Id.* at 6.

The same legislative intent pervaded the Ohio deat [sic] penalty statute which limited defenant [sic] to statutorily enumerated mitigating circumstances. That limitation led the Court in *Lockett v. Ohio*, 438 U.S. 586 (1978) to hold the Ohio statute unconstitutional as violative of the Eighth and Fourteenth Amendments to the Constitution of the United States. Noting that the Ohio Legislature limited the mitigating circumstances in response to *Furman*, the plurality held:

There is no perfect procedure for deciding in which cases governmental authority should be used to impose death. But a statute that prevents the sentencer in all capital cases from giving independent mitigating weight to aspects of the defendant's character and record and to circumstances of the offense proffered in mitigation creates the risk that the death penalty will be imposed in spite of factors which may call for a less severe penalty. When the choice is between life and death, that risk is unacceptable and incompatible with the commends [sic] of the Eighth and Fourteenth Amendments.

* * *

The limited range of mitigating circumstances which may be considered by the sentencer under the Ohio statute is incompatible with the Eighth and Fourteenth Amendment. To meet constitutional requirements, a death penalty statute must not preclude consideration of relevant mitigating factors.

Id. at 605, 607.

Quite clearly, the Florida Legislature has precluded consideration of relevant mitigating circumstances by limiting defendants to those circumstances listed in Section 921.141(6)(a)-(g). Obviously relevant mitigating circumstances such as prospects for rehabilitation, employment background, life sentences imposed in similar cases, lack of premeditation, familiar responsibility, military background and recognition of guilt, are not listed in the Florida death penalty statute.

Thus, the Florida death penalty statute suffers from the same constitutional infirmities as the Ohio statute.

WHEREFORE, the defendant requests the Court to declare Florida Statute Section 921.141 unconstitutional and invalid and vacate death as a possible punishment in this case.

I HEREBY CERTIFY that a true and correct copy of the foregoing Motion to Declare Section 921.141, Florida Statutes, Unconstitutional Re: Aggravating and Mitigating Circumstances has been furnished by hand to the Office of the State Attorney, Broward County Courthouse, Fort Lauderdale, Florida, this 13 day of November 1986.

Respectfully submitted,

ALAN H. SCHREIBER
Public Defender
17th Judicial Circuit

/s/ TG
THOMAS GALLAGHER,
#127247
Assistant Public Defender
Attorney for Defendant

IN THE CIRCUIT COURT OF
THE 17TH JUDICIAL CIRCUIT,
IN AND FOR BROWARD
COUNTY, FLORIDA

STATE OF FLORIDA,) Case No. 86-15270CF

vs.) Judge: SEAY

DENNIS SOCHOR,)

Defendant.)

_____)

DEMAND FOR DISCOVERY RELATIVE TO SENTENCING

The Defendant, Dennis Sochor, pursuant to Amendments Five, Six, and Fourteen to the Constitution of the United States, Article I, Sections Nine and Sixteen of the Constitution of the State of Florida, Rules 3.220 and 3.780 Fla.R.Crim.P., *Gardner v. Florida*, 430 U.S. 349, 97 S.Ct. 1197, 51 L.Ed.2d 393 (1977), *Woodson v. North Carolina*, 428 U.S. 242, 96 S.Ct. 2978, 49 L.Ed.2d 913 (1976), *Brady v. Maryland*, 373 U.S. 373 U.S. [sic] 83, 83 S.Ct. 1194, 10 L.Ed.2d 215 (1963) and *United States v. Argurs*, 427 U.S. 97, 96 S.Ct. 2392, 49 L.Ed.2d 342 (1976) and specifically demands the following discovery material which may be relevant to the sentencing portion of the bifurcated trial envisioned by Section 921.141, Florida Statutes:

1. An enumerated list of the aggravating circumstances which the prosecution intends to attempt to prove during the sentencing phase;

2. The names and addresses of those persons whom the prosecution intends to call in an effort to prove those aggravating circumstances during the sentencing phase;

3. The statement of any person whose name is furnished in compliance with the preceding paragraph;

4. An enumerated list of any tangible papers, documents, photographs or objects which the prosecution intends to introduce in evidence during the sentencing phase;

5. The Defendant further demands that the prosecution disclose to the defense counsel any material information within the State's possession or control which tends to establish, or may lead to the discovery of evidence tending to establish, the existence of any of those "mitigating circumstances" set forth in Section 921.141 (6)(a) through (g) or any other fact or circumstances tending to mitigate culpability for the offense charged which is known to the State or its agents.

6. The above demanded information being relevant to an extremely critical stage of the proceedings it must be provided well in advance of trial of this cause in order that counsel for the Defendant might effectively make use of the mitigating evidence, comment upon, deny, explain rebut or present evidence challenging the accuracy and/or materiality of the identified alleged aggravating circumstances.

WHEREFORE, said Demand for Discovery Relative to Sentencing by the Defendant being relevant and material to the proper defense of the Defendant under applicable Rules, cases and constitutional provisions,

Defendant requests that this demand be answered in all respects.

I HEREBY CERTIFY that a true and correct copy of the foregoing Demand for Discovery Relative to Sentencing has been furnished by hand to the Office of the State Attorney, Broward County Courthouse, Fort Lauderdale, Florida, this 13th day of November, 1986.

ALAN H. SCHREIBER
Public Defender
17th Judicial Circuit
/s/ TG
THOMAS GALLAGHER,
Assistant Public Defender
Attorney for Defendant

State of Florida)
) SS: Russell E. Seay, Jr., J.
County of Broward)

IN THE CIRCUIT COURT
OF THE 17TH JUDICIAL CIRCUIT

(Caption Omitted In Printing)

* * *

[7] THE CLERK: Dennis Sochor.

THE COURT: Pending capital motions? Are they the usual motions?

MR. GALLAGHER: Standard motions, Your Honor. I do not have any argument on them because the Court has ruled on them before.

THE COURT: Anything changed recently?

MR. MORTON: Not to my knowledge, Judge.

THE COURT: But as far as the various motions, has anything changed up in the Supreme Court?

MR. MORTON: No.

THE COURT: Someone got reversed the other day, I think it was Coker. I think there was a question about them being able to impose the death penalty, but even if they didn't agree, so long as they can come back with a verdict it's all right. You cannot challenge them for cause anymore; right?

MR. MORTON: Just so long as they follow the law, Judge. It all boils down to that, regardless of any philosophical feelings about capital punishment.

THE COURT: All right. Do you have any affirmative questions right now?

MR. GALLAGHER: No, Your Honor, I do not.

[8] THE COURT: We have a trial date of what?

MR. GALLAGHER: The date is December 9th, Judge, and I will tell you now it's totally unrealistic, from my point of view. I have what is purported to be discovery, but I only received statements from some of the witnesses, not all. I have received no police reports. I think they have listed about 54 witnesses and about 15 of them are out of state.

THE COURT: How many witnesses?

MR. GALLAGHER: Fifty-four.

THE COURT: What are they going to say?

MR. MORTON: Judge, this case occurred or this girl disappeared a few years ago and the defendant was on the loose or on the run somewhere incognito until he was arrested in Georgia on a DUI charge and a fingerprint check led to him being a suspect in this case. He gave a confession. There are several witnesses he came in contact with and has made statements to in the course of the last 3 years, some in other states, and there are many other witnesses involved in this case, they have moved. So we are going to have to go out of state to depose witnesses.

THE COURT: I heard Ritarsick (phonetic) is [9] in Georgia now. What's he doing there?

MR. GALLAGHER: He retired, more or less, from the Sheriff's Department.

THE COURT: He's not that old.

MR. GALLAGHER: He just wanted to go fishing, I guess, Judge.

THE COURT: I don't know how people get the money to do that but okay. I know these were just ruled on the other day. You don't have to give the aggravating circumstances ahead of time; do you?

MR. MORTON: No, we don't.

THE COURT: That motion is denied. The motion to declare Florida Statute 921 unconstitutional is denied. The motion to dismiss is denied. Your motion to require the State to announce its position as to the death penalty is denied. I read a statement on that the other day about a case from Miami, I read something about that. Actually, the State will put on its case and if they get a conviction then you will go into the second phase.

MR. GALLAGHER: But the State knows ahead of time, Judge, if they are going to be requesting it.

[10] MR. MORTON: Maxwell versus State from '83 wherein the Court indicated we do not have a duty to provide that to the defendant, Your Honor.

THE COURT: Have you told him your position on that?

MR. MORTON: I will probably be asking for the death penalty, considering his background, Judge. That's as much as I can tell them right now.

THE COURT: All right. The demand for discovery relative to sentencing, that's premature.

MR. MORTON: No. I'm still opposed to it, under the law, and I'm not obligated to do so.

THE COURT: That's denied. He has indicated he will be seeking the death penalty.

MR. MORTON: And that's based on my understanding of this case and the defendant's background. It is a case where the jury might well consider the death penalty as a possibility, of course after hearing mitigating and aggravating circumstances. I'm not aware of any mitigating circumstances but I can definitely say there are aggravating circumstances which probably this Court and the jury should consider as far as the death penalty is concerned.

[11] THE COURT: All right. The demand for discovery relative to sentencing is denied. What is this one? You want to preclude what?

MR. MORTON: There are a lot of motions with respect to the jury system, Judge.

THE COURT: Yes, but besides we don't exclude them. So your motion to preclude their challenges for cause are denied. Another motion to dismiss, that's denied. The motion for the jury dispersal, that is denied. That has been covered or there is a recent opinion on that.

MR. GALLAGHER: Yes, Your Honor, There is opinions on most of them, if not all of them.

THE COURT: The motion to sequester the jury, there was a recent ruling on that and that is denied.

MR. GALLAGHER: I'm requesting individual voir dire, that is, that we speak to one juror at a time.

THE COURT: I see.

MR. GALLAGHER: In other words, sequester the jury and have them spoken to one at a time. That has been denied by all the other judges, that I know of.

THE COURT: Yes. It's denied. I have done [12] that before but only because it has something to do with contaminating the rest of the panel.

MR. GALLAGHER: Well, there has been pretrial publicity in this case, Your Honor.

THE COURT: Not that much. It's denied. Motion to declare Florida Statute 922.10 unconstitutional is denied. Motion to preclude sentencing pursuant to 921.141 is denied. Another motion to dismiss. I guess all of the motions to dismiss are denied.

Now here's your motion for individual voir dire and it is denied. A motion to prohibit jury dispersal, the law requires that they do remain together. Or, are you referring to just during deliberations?

MR. MORTON: Just during deliberations, Judge. During the trial they can still go home.

THE COURT: But once they get the case for deliberations then the jury must be sequestered.

MR. GALLAGHER: Yes, sir, if it goes beyond one day.

THE COURT: That's denied. Individual voir dire examination is denied. The motion to dismiss the Indictment or declare death not a possible penalty is denied. Motion to limit dismissal to [13] get qualifications of the jury is denied. That's it.

MR. GALLAGHER: Please the Court, Your Honor? At this time I would be requesting a confidential psychological evaluation under Rule 3.216 for me. If I submit an order to the Court will the Court have any objection to me filling in the name?

THE COURT: No. I have no objection. Whoever you want.

MR. GALLAGHER: I'll submit the order to the Court through the secretaries. Also, Judge, my client is requesting that I ask this Court for advice about his family. He has family coming down Saturday the 6th of December I believe from Michigan. They're coming down to see him, if in fact they will be granted a contact visit. I wonder whether the Court has any objection to signing an order for a contact visit for December 6th?

THE COURT: I don't have any objection but the jail plays games with us judges. First the jail said, "Don't do that," so as a result we stopped doing it now. Then the jail tells you people they will do it with a judge's order. The Sheriff has [14] full authority and he can do it if he wants to. He doesn't tell me how to run my courtroom and I don't tell him how to run the jail. But personally I don't care.

MR. GALLAGHER: If I submit an order will the Court sign it for Saturday the 6th of December?

THE COURT: Sure. Why not?

MR. GALLAGHER: Thank you, Your Honor. Also, Judge, this trial is set for December 9th and to be realistic I'm not going to be ready.

THE COURT: Do you want to set it over right now?

MR. MORTON: Yes, Judge.

THE COURT: Any date you have in mind?

MR. GALLAGHER: I don't know, Judge, because I have quite a bit of work.

THE COURT: Whose continuance is it going to be?

MR. MORTON: Judge, I have provided an Answer to his Demand for Discovery. I did not give him copies of everything that is now available to him, but I provided an Answer to his witness list and if he wants to take the position he has not yet received discovery because he doesn't have copies of that, my position would be we will make them [15] available to him. So I will at this time agree to a joint continuance.

MR. GALLAGHER: That's fine with me, Your Honor.

MR. MORTON: Because of the fact it might have been my secretary's fault. She may not have given him all of the police reports.

THE COURT: What kind of a date are you talking about? Late January or February or what?

MR. GALLAGHER: Could we set it for trail [sic] in February, Judge, and leave it at that and see where we are then?

THE COURT: All right. Get a hold of Pat and she will give you a date.

MR. GALLAGHER: The problem is, Judge, this case is going to necessitate a lot of travel.

MR. MORTON: So long as it's not February 2nd. I have a date certain then.

MR. GALLAGHER: I also have a trial set for a date certain on February 2nd myself before Judge Moe.

THE COURT: How about February 17th?

MR. MORTON: That's fine, Judge.

MR. GALLAGHER: That's fine, Your Honor.

(Thereupon, the hearing was concluded.)

IN THE CIRCUIT COURT
OF THE 17TH JUDICIAL CIRCUIT

(Caption Omitted In Printing)

* * *

DIRECT EXAMINATION

[305] THE CLERK: Please state your name and spell your last name.

THE WITNESS: Gary Charles Robert Sochor.

Q (By Mr. Hancock) And how old are you, Gary?

A Thirty-four.

Q And where do you presently live, sir?

A Iona, Michigan.

Q Who do you live there with?

A My wife and three children.

Q Do you have any children?

A Three.

[306] Q And what are their ages?

A Twelve, ten, and eight.

Q And what is your occupation right now? What do you do?

A I am working with a roofing company.

Q I take your attention back to December of 1982 and January of 1982. What were you doing, what type of work?

A I didn't hear the question.

Q That's okay. Back in December of 1981, what type of employment or occupation did you have?

A I worked for Oldsmobile.

Q And what did you do for Oldsmobile?

A I was a motor repairman.

Q How long did you work for Oldsmobile?

A At that time, approximately ten years.

Q Now, you know an individual by the name of Dennis Sochor; correct?

A Yes.

Q And what relationship is he to you?

A He is my brother.

Q And what is the age difference between you and your brother?

A A year and a day.

Q Now, did there come a time, in December of [307] 1981, that you had occasion to come to Fort Lauderdale?

A Yes.

Q And when would you have come, Gary?

A I believe it was the day after Christmas.

Q And who did you visit, while you were down here?

A My brother.

Q And where was your brother living?

A In an apartment, just off 84.

Q In Fort Lauderdale; correct?

A Yes.

Q And who was he living there with?

A Two brothers, Randy and Barry.

Q And I take your attention back to New Year's Eve, December 31, 1981. Did you have occasion to go out New Year's Eve?

A What was the date?

Q December 31st, New Year's Eve.

A Yes.

Q Who did you go out with?

A My brother.

Q And can you tell us what time you went out with your brother?

A We left the apartment at approximately six in the afternoon.

[308] Q And can you tell the ladies and gentlemen of the jury where you went, Gary?

A We went to the Banana Boat.

Q And where was the Banana Boat?

A On State Road 84.

Q Can you describe that bar for us, Gary, if you would, please?

A Well, it was a fairly good size bar with a bar in the outside of the building in the back, and a bar – two bars, one in towards the highway, and one towards the back, by the parking lot.

Q And where did you sit, or where did you go in there?

A When we first entered, we went to the bar in the back by the parking lot, and we sat at – I believe we went and sat at the bar.

Q Did you have anything to drink, before you got to the bar?

A No.

Q Did your brother have anything to drink, before he got to the bar?

A No.

Q And while you were in the bar, did there come a time when you had occasion to meet two young females?

[309] A While we were there, approximately a half hour or so, two girls came in.

Q Can you describe these two girls?

A Yeah, one had blond hair and glasses. I believe they both had glasses, and Patty was the blond haired girl.

Q Do you remember the name of the girl, the one girl –

A Patty was the blond, and Delta is a dark haired girl.

Q And how long did you talk to them for?

A Pardon?

Q How long did you talk to them for?

A Myself?

Q Yes.

A Approximately half an hour maybe.

Q And was there any reason why you didn't talk to them longer than that?

A They seemed fairly young. I come down for a vacation, and I was more interested in talking to older, more – what's the word?

Q More mature?

A More mature.

Q Let me show you State's Exhibit 5 and ask you if you recognize these two girls.

[310] A Yes.

Q Were those the two girls you and your brother met that evening?

A Yes.

Q And what did you do after you left the girls? Where did you go?

A I went into the bar, the inner bar.

Q What did your brother Dennis do?

A He stayed out in that bar talking to Patty and Delta.

Q And do you know how long he stayed out there talking to them for?

A While we were in the bar. We stayed at that bar most of the night, and he was out in the back with them the whole time we were there.

Q What were you doing?

A I was walking around the inner bar talking to a lot of people, celebrating the new year coming.

Q Did you ever go back and check with him?

A Periodically, I'd go through the door in the back and see how – you know, just look around the corner and see how they were doing.

Q Now, what type of vehicle did you come to the bar in, Gary?

A A little white truck.

[311] Q And whose white truck was that?

A My brother told me it was his boss' truck that he used in the pool cleaning business.

Q And where did you park, when you got there?

A Along the – I'm not familiar. I believe it was the south side of the building.

Q In the parking lot of the building?

A Yeah.

Q Looking at State's Exhibit 19 in evidence, do you recognize that?

A Everything but the dent. When I seen it, it didn't have any dents in it.

Q Same with State's Exhibit 17, does that look like the white –

A That looks like the truck.

Q Now, did there come a time when someone became sick in the bar?

A Yeah. I believe it was about the third time I went to the back. When I opened the door, Denny and Patty were helping Delta, what seemed to be she was pretty drunk, and they were helping her out to the vehicle, and I asked them if they wanted some help to take her out. They said yes, so I –

Q So, you assisted them?

[312] A Yes.

Q Let me take you back to the vehicle, one other question. Do you know when your brother last washed that vehicle or cleaned it?

A It was cleaned the whole time. The whole week I was down there, it was always clean.

Q What would he do everyday?

A During the day, he'd go clean the pools, but I know the truck was cleaned everyday, and the doors were always locked.

Q What happened now Gary, when you helped him with this girl that was sick out to the parking lot?

MR. RICH: Your Honor, I have an objection. When he says girl out to the parking lot, I'd like to know which girl it was.

MR. HANCOCK: I will be happy to rephrase it.

THE COURT: I though he stated.

Q (By Mr. Hancock) Looking at the State's Exhibit, which girl was it that was sick?

A Delta, the dark haired girl.

Q The one over here?

A Yes.

Q And where did you take her, or help take [313] her?

A We took her out to the car and put her in the passenger's seat and rolled the windows down a little bit and locked the doors.

Q What type of car was it that you took her to? Do you remember the color of the car?

A Seemed like a blue and white mustang or –

Q Then you went where?

A Then we went back – Dennis, Patty, and I went back to the bar, and they went to the table that they were at, and I went into the inner bar.

Q Then there came a time when you left the bar; is that correct?

A Yeah, it was after New Year's. They had celebrated the new year, and I hadn't met anybody that I really could talk to or no one in particular. I was pretty bored with the bar and wanted to leave and go somewhere else.

Q And can you tell us what happened then? There came a time when you left; right? You and your brother left?

A Yes, I went out and told Denny I wanted to get going, and he threw me the keys and told me to bring the truck around, and he'd be there.

[314] Q Did you go bring the truck around?

A Yeah. I got in the truck, and when I brought the truck around, it was like a horseshoe parking lot, and I brought it around, and Denny and Patty were in the back corner of the parking lot underneath a tree kissing.

Q Let me show you, with Judge Seay's permission, State's Exhibit One. Now, looking at State's Exhibit One – and you are not real familiar with Broward County, is that a fair statement?

A Yes, I am not.

Q Does this look like the Banana Boat?

A Yes.

Q Is that the Banana Boat?

A Yes.

Q Can you come down, with permission of the Judge, and show us where you pulled the pick-up to?

Maybe show this group, Gary, and then walk down.

A The truck was parked right here, and I brought it around this way, and their car was parked approximately right here, and then Denny and Patty were back there.

Q Thank you. You can sit down. Now, what did you do then, Gary, after you pulled the pick-up [315] around?

A I parked behind the vehicle Delta was in and waited.

Q Did you do anything?

A Well, I waited for ten, fifteen minutes, and I wanted to get going, so I backed up by the tree, honked the horn a couple of times, hollared at them, then I pulled forward again, behind the car.

Q What happened then?

A Well, Denny and Patty come up to the vehicle and kissed good-by, and Denny come over to the driver's

side and told me to get over, and I told him I wanted to drive. We argued for a couple of minutes over who was going to drive, and finally, I wanted to get going, so instead of arguing anymore, I just got out of the vehicle and walked around to the passenger's side.

Q Why did you give in?

A He forced the issue that he was going to drive. He wasn't going to let me drive. It was his boss' truck.

Q What happened then?

A Well, at that time, Patty was standing by the driver's side of the car, and I just mentioned that we ought to get something to eat because I always – [316] after drinking, I always usually went out for breakfast and told her that her girlfriend was – let her sober up, and we'd go out and get something to eat.

Q And what was the next thing that happened?

A She got in the vehicle, and we took off.

Q Approximately how far did you go, Gary?

A It seemed about approximately five minutes.

Q You were still in Broward County, Florida though; is that correct?

A Five minutes. I am not sure what, you know, where the countyline is.

Q What happened then?

A Everything.

Q Let me ask you this, before I ask that. Who was driving?

A Denny was driving.

Q And where were you?

A I was in the passenger's seat.

Q Did there come a time when the vehicle stopped?

A I remember the vehicle coming to a stop, and Denny got out of the truck and –

Q Now, do you remember a time when Patty said something to you?

[317] A Patty was hollaring [sic] for help, asking what was going on.

Q Who was she yelling to help her?

A Myself. I got out of the passenger's side, ran around the vehicle, and Denny had her on the ground, had her hands pinned down. I hollared [sic] at him, and –

Q What was she doing at that time, Patty?

A Just laying there, and I couldn't understand what was happening, and I just hollared [sic] at Denny to leave her alone. I went and picked up a stone, looking for a rock or stone or something, and I remember throwing – not to hit him. I threw the stone just above his head to scare him, and he turned and looked at me and told me to get back in the truck, which I did.

Q And why did you get back in the truck?

A Well, in our past, Denny would – we would get in brotherly arguments and fights, and sometimes Denny would get real furious and –

Q Let me ask you this: How did he look when you saw him out there? Describe him, if you would, to the ladies and gentlemen of the jury.

A I wouldn't know what come over him at times, but a couple of times in our past and at that [318] particular time –

Q Do you need a drink of water, Gary?

A Some air.

MR. HANCOCK: Can we get a drink of water for him?

Q (By Mr. Hancock) Just relax.

A The pupil would roll back, and all I'd see is white in his eyes, and he'd be very – real furious, and in a voice that wasn't his. It would be deep, and would scare you.

Q And can you describe this look?

A He looked to be possessed.

Q What do you mean by "he looked to be possessed?"

A Well, I don't know. It wasn't him. He was possessed by something, you know. I always looked at it as the devil.

Q Now, you indicated you had seen this look before; correct?

A Yes.

Q Now, after that, you indicated you got back in the truck; correct?

A Yes.

Q And after getting back in the truck, can you tell the ladies and gentlemen of the jury what you [319] did?

A I put my face in my hands, in my lap, and just sat there.

Q And how long was it before Dennis came back into the truck?

A It seemed to be around five minutes, a couple of minutes, not very long.

Q Did you ever see Patty again?

A No.

Q And what happened after he got back in the truck?

A As we started down the road – and it's not hard to remember, but it's just I can remember him starting to talk to me, and I started screaming because I didn't want to hear anything he had to say. I didn't look at him. I didn't sit up. I was just screaming.

Q And why didn't you make any effort to help Patty?

A I was scared of him. We got in some fights in our past, and I usually ended up on the short end of the deal.

Q And after you got back in, did he say anything to you about telling anyone?

A All I remember is the screaming, just screaming, not saying anything, just screaming, and all [320] I remember him saying was that if I didn't shut up, I'd never see my family again.

Q When he gave that threat to you, what did you say or do?

A The next thing I remember, I stopped screaming, and I sat straight up in the truck, and I seen the stoplight, and it was like I didn't remember a thing. I mean I asked him to take me to the beach.

Q And did there come a time when he went back to his place?

A All I remember now is arguing with him about taking me to the beach.

Q Did you get back to the apartment, to where he was living?

A Yeah, he wouldn't take me to the beach, and we got back to the apartment, and I remember getting out and still arguing about I wanted to go down to the beach, and I can remember somebody at the other apartment hollaring [sic] at us to quiet down.

Q That was someone else in another apartment?

A Yeah.

Q You two were arguing; is that correct?

A Correct.

Q And where did you go after that?

[321] A I opened the door, and I went in, and I folded down the couch bed, and I layed down and passed out.

Q What time would this have been about?

A It seemed to be about 1:30, 2:00. I didn't look at the clock, but I kind of remember. I believe the bars down on the beach didn't close until four, and that's why I wanted to go because I wanted to go down to the bars down on the beach.

Q Do you recall if anyone slapped anyone or punched anyone?

A I don't recall.

Q Would you have slapped or punched him?

A No.

Q And you went and fell asleep then on the sofa; correct?

A Yes.

Q Do you know if he left after that?

MR. RICH: I object to that. If he is asleep, how could he possibly know?

MR. HANCOCK: That's what I am asking, Judge.

THE COURT: Overruled.

THE WITNESS: Well, one of the other guys that stayed at the apartment came home from [322] work before daybreak, and it was around six o'clock in the morning when he got home from work, and when he come in the door, I woke up, and I sat up, and there's a picture window right there that is right by the parking space to the apartment.

Q (By Mr. Hancock) Did you see the pick-up there?

A No, and I asked –

Q You can't say what he told you. That would be hearsay. You asked somebody about it; right, where Denny was?

A Well, when I looked out, and I didn't see the truck, I asked Randy if Denny's truck was out there, and he said no.

Q And what did you do after that?

A I layed back down figuring he went out and partied. I layed back down and went to sleep.

Q And when would you have woken up again?

A It was at daybreak, around seven, eight o'clock in the morning.

Q At that time, did you see the pick-up?

A I got up, and it was – it was a real hot sunny morning, and I got a cigarette and walked outside, and his truck was out there, and it seemed [323] strange and funny to me because the whole week I was down there, it was never – the doors were always locked and everything, and this time, when I walked out, he wasn't around, and the doors were – both doors were open.

Q And as a result of seeing both doors open, what did you do, or what did you observe?

A As I lit my cigarette, I walked around the back of the truck, and as I looked in the back of the truck, I seen a dark line down one of the ridges of the bed of the truck, and I had a first impression. I don't really know, but I had

a first impression of what that looked like, but I didn't check it out or nothing and –

Q Was that there the night before?

A Not to my recollection. The truck was clean.

Q Was there some bushes or leaves in the back there?

A I didn't see any bushes or leaves, just that dark line down the bed of the truck, and then I went around to the passenger's side and sat down in the seat, and in the truck, I seen there was a woman's shoe and a set of keys and a cloth item.

Q Let's take them one at a time. The shoes, [324] can you describe the shoes you saw?

A Well, I picked the shoe up. It was a dark color, seemed like brown now, but it was a dark color woman's shoe. I picked it up and looked at it and set it on the –

Q Was it a high-heel type shoe?

A Yes, it was a high-heel type shoe.

Q And then you said that you saw some keys. Where were the keys in the truck?

A The keys were on the floor.

Q Can you describe those keys?

A It seemed like a set of keys with four keys on a ring and had an emblem of the car or something. There was an insignia of some kind on the ring too.

Q Do you recall what type it was, at best you can?

A It seemed like a horse, but –

Q Now, what about the article of clothing you saw, can you describe that as best you can?

A Today, looking back, it seemed like it was a girl's sweater or blouse – or not a blouse, but a sweater of some kind.

Q What color do you recall it being, Gary?

A Off white.

[325] Q Now, can you tell the ladies and gentlemen of the jury what you did with any of those items?

A Well, I set the shoe on the dash, and I hung that cloth item over the driver's door, and holding the keys, I was thinking that, you know, they got to be somebody's keys, and as long as I have the keys, they will have to come to me to get them, so I took the keys, and I got out of the truck, and I dropped the keys in the trailer next to the truck that he used to take the pool materials around, pool cleaning materials around with, and I brought them and dropped them down between some buckets and went and sat back down in the truck.

I hollared [sic] for Denny, and he didn't answer, so I sat down in the truck waiting, and I passed out in the heat, being a little hung over from the night before, and in the heat of the morning, I passed out, and when I woke up, the doors of the truck were shut. I was still sitting in the vehicle, and the doors were shut, and the truck was cleaned, and there was nothing left in the truck, and it had been cleaned.

So, I got out of the truck and hollared [sic] for him. He didn't come around, so I went in, and I sat on the couch, and I was in there about a minute or two, and he came walking in and stood in front of me, [326] and the first thing I seen were three gouges on his left cheek.

Q And can you actually describe him? What did they look like; gouges you said?

A It looked like – to me, it looked like three fingernails, three finger gouges right there.

Q Now, what if anything did you do with the keys?

A Well, I asked him what the hell happened to him, and he went on to tell me about a fight he got in that night, that somebody was monkeying around the truck. I asked him – I kind of didn't believe it because I knew his past, and he never –

Q Let me ask you this: Did he tell you who had done that to him?

A The girl that was with the guy he got in the fight with.

Q Now, you were with him the night before; is that correct?

A Correct.

Q Did you see him get – besides the incident you've described for the ladies and gentlemen of the jury, did you see him get in any fight with any guy or girl?

A No.

[327] Q And so when he told you that story, what if anything did you say to him?

A I told him he was lying because I knew him, and I knew he'd never let anybody get that close to him.

Q What happened to the keys?

A Well, I wanted to go down to the beach and go swimming, and we went out in the truck, and we talked about it, and I mentioned that I had the keys, and I wanted to know whose keys those were, and whose stuff that was in the truck, and he said it was the people that were monkeying around the truck, that he got in a fight with, and he asked me to give him the keys.

I told him I wouldn't give them to him, unless he told me the truth, and that I would hold the keys until somebody came after them, and he got real furious, and I could tell that if I didn't give him the keys, it was going to be a knock down drag out, and rather than fight right there in front of the apartment and stuff, I went and got the keys and gave him the keys.

Q Did he have that same look that you have described, like he was possessed at that point?

A He was on the verge. I mean it wasn't – [328] the eyes didn't roll, but I could tell if I didn't get the keys, it was going to be a knock down drag out.

Q So, you gave him the keys then; is that correct?

A I just gave him the keys, too.

Q Did you ever see this sweater or this shoe again or this artical [sic] you thought was an off-white sweater?

A No.

Q Now, when did you leave, Gary?

A It was a Sunday afternoon, I believe two days after New Year's Eve. It was a Sunday afternoon, after New Year's.

Q Before you left, did you go anywhere? Did he take you anywhere?

A Well, I got up Sunday morning. He asked me if I wanted to go see the Everglades, and there wasn't a whole lot of time to do anything else, so I said yes, let's go out and see the Everglades, and we went out 84, passed the Banana Boat and went passed like a check station. It was a little white building that was right there on the highway and went through there and out a couple of miles and pulled into a little spot, where there was a guy fishing off the road.

[329] Q Whose idea was pulling into that little spot? Was any discussion had?

A No, he just pulled in there.

Q Did he get out at that time and look around?

A Well, we both got out of the vehicle, and I went up and was talking to the guy fishing, seeing what he was catching.

Q Then where did you go?

A Then we turned and headed back towards the apartment, and there was some kind of park like thing, where you can get some fruit.

Q Did eventually you go to the airport then?

A Yeah, I got some oranges and stuff, and then it was time to go to the airport, and he drove me to the airport.

Q Did he say anything that you thought was unusual, when you got to the airport?

A Yeah, after we went up through the checks and everything, and I was about ready to walk up to get on the plane, the last thing he said to me was: "I am glad to get you out of here."

Q Where did you go then, Gary?

A I got on the plane.

Q Back to your family?

[330] A Yes.

Q Where was that?

A At that time, it was on Zales (phonetic) Road.

Q In Michigan; correct?

A Yes.

Q Now, then there came a time when detectives came to see you; is that correct?

A Yes.

Q Where did they first come in contact with you at, Gary?

A It was the following Friday, at my work at Oldsmobile.

Q And do you recall who they were that came and talked to you?

A John and Paul, two detectives.

Q And did they show you anything?

A Yes, they showed me – first they asked me if I knew where Denny was, and I said, "No, the last I seen him was in Florida, the weekend before," and they showed me a picture of the two girls.

Q Let me show you State's Exhibit 27 in evidence. Do you recognize that?

A Yes.

Q And did they show you that?

[331] A Yes.

Q Did they have you write anything on the back?

A Yeah. I believe that's my signature.

Q That's your signature?

A Yes.

Q And I don't see the date on there. Do you know how many days it was, after you flew back, that the police came?

A Yeah, it would have been what, five days? I left on a Sunday and it was the following Friday.

Q And then I show you State's Exhibit 23 in evidence, Gary, and I ask you if you recognize that. Look on the back and see if you signed it? Is that your signature?

A Yes.

Q And on the other side, do you recognize that?

A Yes.

Q Now, they also showed you that; is that correct?

A Yes.

Q And you identified him as your brother, Dennis; correct?

A Yes.

[332] Q And did you give a statement to the police at that time?

A Somewhat of – you know, yeah, we talked.

Q Now, did you cooperate with the police?

A Yes.

Q Can you tell us how you cooperated with the police?

A Well, at Oldsmobile, I had told them about the marks I seen on his face and the keys. No, I didn't remember the keys at that time.

Q You told him what you knew?

A I told him what I know.

Q Besides that, did you give him like fingerprints, hair and blood samples? Do you remember doing that?

A Okay, that was – I believe that was the following afternoon.

Q Now, did there come a time when you agreed to go somewhere with the detectives?

A Well, when they told me that Patty was missing, the marks – some things that I had remembered at that

time just bothered me, that I had to know for sure for myself, and I offered to come back to Florida and retrace our steps that night, to see if there was something that I wasn't remembering, something that –

[333] Q So, you voluntarily came back with the detectives; is that correct?

A Yes.

Q Now, let me show you what's marked State's Exhibit – it's a copy of State's Exhibits AAA and BBB. Let me show you AAA for identification. Look and see if you recognize your signature.

A Yes.

Q And also State's Exhibit BBB for identification. Do you recognize that?

A Yes.

MR. HANCOCK: We ask that these be introduced in evidence.

MR. RICH: No objection.

THE COURT: Maybe received.

THE CLERK: State's Number 36 and 37.

MR. HANCOCK: May I proceed, Your Honor?

THE COURT: Yes.

Q (By Mr. Hancock) Now, after coming down, can you tell the ladies and gentlemen of the jury what you did when you came back to Fort Lauderdale?

A Well, we drove out – the detectives drove me out to the Banana Boat, and then we went out 84 and looked around.

Q What were you looking for?

[334] A I believe it was trying to find a spot or something that would help me recall.

Q Now, did there ever come a time when you met Patty's mother?

A Yeah, later that evening, they brought Patty's mother –

Q And as a result of meeting Patty's mother, did you have occasion to go with the police again to help try to find the body of Patty?

A Yes.

Q And where did you go that time?

A I went out 84 again and another spot by a house, back by the Banana Boat, but a median out on 84 kind of – it seemed to do something like a memory to me, but I wasn't – you know, it just looked like the green that I recalled it.

Q You weren't familiar with the area; right, and plus it was late at night when you were out there; correct?

A Correct.

Q You were never able to identify the exact spot; correct?

A Not to my knowledge. I couldn't pinpoint.

Q Now, when is the last time you heard from your brother?

[335] A About approximately two months ago.

Q But before that, when is the last time after you left Fort Lauderdale and went back to Michigan?

A I never heard from him again, until when he was arrested.

Q And do you know where he was arrested at, what state?

A I am not sure what state. I think South Carolina, Georgia, something like that.

Q And do you recall when that was, how long ago that would have been, Gary, approximately?

A It was May.

Q 1986?

A Yes.

Q And what happened after he was arrested?

A The detectives came to my house and told me that they had arrested him for driving through –

Q Without saying exactly what it was, what I am asking is: There came a time when you found out he had been arrested; correct?

A Yes.

Q And as a result, did the police take another statement from you?

A Yes. We went to the State Police Post, [336] and they were questioning me at the State Police Post in Iona, and at that time, I told them about this image that I couldn't explain, about my face being in my hands in my lap and screaming at him, and that for the past year or two, that this kept coming to me, and I couldn't place it, why I was like that, why I was screaming at him.

Q Then you gave a statement; is that correct?

A Yes.

Q And now that night at the Banana Boat, were you intoxicated?

A Yes.

Q Were you drunk to the point you didn't know what was going on?

A No, I always knew what was – you know, I had an alcohol problem for years, but I was able to control myself under the influence.

Q Were you able to control yourself that night?

A Yes.

Q And how about your brother Dennis, was he in control of himself?

A When?

Q That night when you saw him?

[337] A At the bar?

Q Yes, at the Banana Boat.

A At the bar, yes, he was in control.

Q Now, who had more to drink, you or him?

A I didn't sit with him, so I don't know how much they had to drink, but from the way things were going, I would say that I had quite a bit more than the others.

Q Now, you indicated that you had talked to your brother; is that correct, the last time, a couple of months ago?

A Yeah, he was in jail. He would call.

Q And as a result, did he tell you or ask you to do something or say something?

A I told him I didn't want to discuss the case, let's just talk brothers, then he mentioned – I guess he read my statement, and he said that there were some things in my statement that he wished I wouldn't say.

Q What did you tell him?

A I told him that they were things that I knew to be true. I had to say them.

Q Now, the final question, Gary. Do you see him in the courtroom today?

A Yes.

[338] Q Can you point him out, for the record, please?

A He is sitting at the defense table.

MR. HANCOCK: Your Honor, may the record reflect he's identified the defendant, Dennis Sochor?

THE COURT: Yes.

MR. HANCOCK: Thank you very much. Thank you, Your Honor.

MR. RICH: May it please the Court, Mr. Hancock.

CROSS EXAMINATION

BY MR. RICH:

Q Mr. Sochor, as you sit there today, do you have an independent recollection of the events that occurred on New Year's Eve in 1982?

A Yes.

Q And back in January of '82, you made a statement to Detective Paul Lauria? The time of the statement was 6:34, at the Oldsmobile Plant in Michigan.

A Yes.

Q Do you remember that statement?

A Yes.

Q Do you have a vivid recollection of what [339] had occurred January 1st, 1982?

A No.

Q Do you remember giving that statement consisting of twenty-eight pages and consuming about an hour and twenty-four minutes? Do you remember giving that statement?

A At the Oldsmobile Plant?

Q Yes.

A Yes.

Q It took about an hour and a half to give that statement?

A Yes.

Q Do you remember meeting a Sergeant John Feltgen at the Oldsmobile Plant, along with Paul Lauria?

A Yes.

Q Do you remember them identifying themselves as police officers from Broward County?

A Yes, that is the first thing they did.

Q And do you remember what you said to them, when they first identified themselves to you as police officers?

A Yes.

Q What did you say?

A "Now what did he do."

[340] Q You didn't say anything else like "Denny didn't do it?"

A I asked, "Now what did he do."

Q You didn't say, "Denny didn't do it. Denny didn't do it?"

A I don't recall saying that.

Q At that particular statement though – you do recall giving that statement; right?

A Certain things I remember saying at that time.

Q Do you remember telling them, back in January of 1982, that when you and Denny left the Banana Boat, that Patty was still standing by the car?

A I remember saying that.

Q And Denny left alone?

A I remember saying that.

Q Was that your best recollection, or was it just a lie?

A It was my best recollection at that time.

Q So, that's what you told them, that when you and Denny left the Banana Boat, that you were driving; correct?

A No

Q Denny was driving?

A Right.

[341] Q You were a passenger?

A Correct.

Q And Patty was standing by the car, Delta's car, at the Banana Boat?

A That's what I said the first time.

Q And the two of you left alone?

A Correct.

Q And that there was no problems at all with Patty?

A I said that at first, yes.

Q And was that your best recollection of what had occurred when you made that statement?

A At that time.

Q Do you remember whether or not Denny and Patty kissed good-by?

A Yes.

Q Did you say that?

A Yes, I said that.

Q That occurred just before you and Denny left the Banana Boat; right?

A Correct.

Q Would you say your recollection was better when you made this statement back on January the 8th of 1982, or would you say that your recollection is better now, five years later?

[342] A Now.

Q I see. This occurred maybe six or seven days after the incident; right?

A Correct.

Q And you were telling the truth at this time, were you not?

A To my best recollection, I was.

Q And you raised your hand, and you were sworn in by the police officer to tell the truth and nothing but the truth; is that correct? Do you remember doing that?

MR. RICH: If I may approach the witness, Your Honor.

THE WITNESS: I don't remember raising my hand and being sworn in, but –

Q (By Mr. Rich) May I show you this? This is the one that was taken January the 8th, 6:34 p.m., at the Oldsmobile Plant in Lansing, Michigan; right?

Did you have occasion to read and sign that statement?

A I didn't read this.

Q Did you ever sign that statement?

A At the Oldsmobile Plant?

Q Yes, sir.

A No, I don't remember signing the [343] statements at the Oldsmobile Plant.

Q Do you remember raising your hand and swearing solemnly to God to tell the truth, the whole truth, and nothing but the truth? Do you remember that?

A They didn't swear me in at that time.

Q What does it say there? The police officer is now lying? Doesn't it say that?

A Just a minute. I was told I was under oath, but – yes, just like it reads there, just like it reads.

Q And you swore to tell the truth and nothing but the truth, so help you God?

A Yes.

Q And you told the truth at that time, so help you God?

A To what I could remember at that time.

Q And what you remember at that time was that when you and Denny left the Banana Boat, Patty was still there, alive and well?

A That's what I said at that time, yes.

Q And throughout that entire statement, an hour and a half, you persisted and repeatedly stated that this was the truth and nothing but the truth?

A Yes.

[344] Q Statement number one is the truth, as you knew it January the 8th of '82?

A Correct.

Q Okay. That statement started about 6:34 in the evening; is that correct?

A Yeah, I was there about an hour.

Q And the statement ended about 7:35 p.m. at the plant?

A At the plant.

Q An hour and twenty-four minutes?

A That sounds –

Q Two police officers there interrogating you, asking you detailed questions, and you still insisted that at that point, Denny and you had no involvement, and that Patty was okay? For an hour and a half, you insisted on that?

A I didn't say Patty was okay. I said that Denny and I had nothing – that I didn't recall. I remembered Patty at the car, when we left the parking lot.

Q And she was standing in the parking lot?

A That's what I said at that time.

Q Statement number two, remember that one?

A Yes

Q Where was that taken?

[345] A State Police Complex in Lansing.

Q Well, this statement was at 7:37. You are still at the Oldsmobile Plant. Do you remember that this consisted of eleven pages? Let me show you that statement. Did you ever read this statement, and did you ever sign this statement, the second statement?

MR. HANCOCK: What's the date of that one?

MR. RICH: 7:37, January the 8th, 1982, continuation of the same.

Q (By Mr. Rich) Did you ever read it?

A If I could read a couple of questions, and I can remember where the questions were asked.

Q Sure, take your time. That would be at the Oldsmobile Plant, a continuation of the tape. Remember, they stopped the tape, turned it over, and continued asking you questions for another seven or eight minutes?

A No, sir, because this question here wasn't taken at the Oldsmobile Plant.

Q Where was that taken?

A I believe that was at the State Police.

Q I have another one. That's your third statement. I will show you that one. You don't remember where they turned the tape over and continued asking you more questions?

[346] A Okay, this was possibly at the Oldsmobile Plant.

Q They went on for another – I don't know. They started at 7:37 and ended at 7:50, so another fifteen, twenty minutes; right?

A Yes.

Q And in that statement, you still insisted that when you and Denny left the Banana Boat parking lot, that Patty was there in the parking lot and was okay? That's you're second, fifteen minute, statement?

A Correct.

Q And you told them at that time that you were telling the truth?

A That I could not remember Patty getting in the vehicle.

Q But you were telling the truth?

A Yes.

Q And you did state positively that when you and Denny left, Patty was still in the parking lot?

A Yes.

Q That's your second statement; right?

A Yes.

Q And you were truthful at that time, back on January the 8th, 1982, at 7:30 p.m., in front of Paul Lauria and John Feltgen?

[347] A Yes.

Q The truth, the whole truth?

A What I could remember.

Q The third statement, do you remember that one, January the 9th, 1981 – I'm sorry, 1982. They made a mistake too. I will show you. That statement started at about 2:55, on January the 9th, and ended at 3:17, about twenty-three minutes. Do you remember that third statement?

A Yes.

Q Where was that taken?

A State Police Headquarters in Lansing.

Q And who was present at that time, besides you, Paul Lauria, and John Feltgen, if you know?

A I am not sure.

Q State police?

A That seems like – well, it seemed like a lot of state police around.

Q Were you handcuffed?

A Not at that time.

Q Were you locked up?

A Not at that time.

Q Were you ever handcuffed?

A Once.

Q When?

[348] A When I came down to Florida.

Q They handcuffed you?

A Yes.

Q Were you under arrest?

A No.

Q Did you voluntarily come to Florida?

A Yes.

Q Why did they handcuff you?

A I didn't know.

Q During these first two statements that you gave on January the 8th, did Paul Lauria and John Feltgen ever indicate to you that you might be charged with murder, if you didn't cooperate?

A Not really. I mean they never –

Q Either they did, or they didn't. It's like being pregnant; either you are pregnant, or you're not. Did they tell you that if you did not cooperate, you would be charged with first degree murder?

A They didn't say those words.

Q Well, tell me what they said, please.

A They mentioned that if Denny was found, if he was questioned, he could say things that would incriminate me.

Q Were you a suspect at this point, in a first degree murder investigation?

[349] A I am not sure.

Q Did they give you any warnings, pursuant to your right to remain silent, before you made these statements?

A Yeah, they asked me if I wanted a lawyer, I had the right to remain silent.

Q So, they gave you all of these warnings that they give a suspect in an investigation; right?

A Yes.

Q Did you feel that when Lauria and Feltgen came up to you at the Oldsmobile Plant that they were investigating you for this murder?

A No.

Q Did you feel that if you did not cooperate with them and tell them what they wanted to hear, that you would be charged with murder?

A I didn't feel that I was being charged with murder, no.

Q Did they indicate in anyway that you could be charged with murder, if you did not play ball with them, and cooperate in giving a statement?

A They never said it, but –

Q But what?

A I guess –

Q You guess what?

[350] A I got the impression that – I guess I got the impression that at one time I was, yes.

Q That you was what?

A A suspect.

Q In a murder case?

A Correct.

Q And that you might get life imprisonment or the electric chair, unless you cooperated with these police officers in giving them a statement that they wanted to hear; correct?

A That they wanted to hear?

Q Yes.

A No, not that they wanted to hear.

Q They weren't too satisfied with these first two statement, when you stated that you and Denny had no involvement in this kidnapping/murder. They weren't satisfied with that, were they?

A Because I kept remembering things.

Q I see. The spector of the electric chair hanging over your head did not make you remember things, did it?

A No. Things would come me, just things would come.

Q But in the back of your mind, you never did think that maybe you might be sitting in the [351] electric chair, if you didn't give a statement and get these two cops off your back?

A No, I never thought that.

Q You never thought that?

A No.

Q Even though you got the impression, you never thought that?

A I didn't think that I would get the electric chair.

Q What did you think you would get?

A Nothing. I was innocent.

Q I see. And you said Denny was innocent. On numerous occasions, you said Denny was innocent.

A I didn't say he was innocent. I said I didn't recall Patty being in the vehicle.

Q That's not what you said, is it? Would you like to read what you said? Would you like to read what you said?

A Yes.

MR. RICH: Page ten, Kelly, first statement.

MR. HANCOCK : Top? Bottom? Middle?

MR. RICH: Well, starting with "All right, when you left the Banana Boat, did you want to go some place else?" What was your answer?

[352] THE WITNESS: "Yes."

Q (By Mr. Rich) "Were you alone with Dennis?" What was your answer?

A "Yes."

Q "Was Patty in the lot when you left?" What was your answer?

A "Yes."

Q You remembered it pretty good then, didn't you?

A At that time, it seemed that that's the way it was.

Q "Did she waive good-by to Dennis?" What was your answer?

A "Yes, we just left."

Q So, you remembered it pretty good back then, didn't you? Before they told that you were a suspect in a murder case, you remembered it pretty good back then.

A No, not before.

Q Were you a suspect in a murder case at that point, January the 8th, 1982?

A I didn't believe I was a suspect at any time.

Q They never mentioned the fact that you might be a suspect, January the 8th? The second [353] statement, they never mentioned that you were a suspect, just a witness? That's why they handcuffed you, when they

brought you back because you were just a willing witness?

A They didn't handcuff me when they brought me back. I came down voluntarily.

Q You just said that when you came down here to give a statement, that you were in handcuffs?

A No.

Q When were you in handcuffs?

A When I met Paul and John's boss. I don't know what was said.

Q Did you come back in the airplane with Paul Lauria and John Feltgen?

A Yes.

Q Were you in handcuffs on the airplane?

A No.

Q Were you in handcuffs, when you got off the airplane?

A No, not when I got off.

Q When did they handcuff you, when you got in the car?

A When I got to the office, BSO office, Broward Sheriff's Office.

Q They handcuffed you?

[354] A Yes.

Q While they were interrogating you?

A No, they just handcuffed me, put me in a cell for a couple of hours.

Q I see. Alone?

A Yes.

Q Well, while you were in that cell handcuffed, for a couple of hours, did you feel that you might be in some way implicated in a murder case?

A No, I fell asleep.

Q It didn't bother you at all?

A I was pretty tired.

Q You were pretty what?

A Tired.

Q So, you were just handcuffed in a cell for a couple of hours, and you fell asleep?

A Yes.

Q So, you are back at the Broward Sheriff's Office. that was around January the 9th, 1982; right?

A Pardon?

Q The third statement, that was the Lansing Police statement. Remember that?

A Of?

Q January the 9th, 2:55 p.m., the next day.

A The next day, yes.

[355] Q They took you to the police department in Lansing, Michigan; right?

A Yes.

Q Were you handcuffed then?

A No.

Q Did they administer the oath to you at that time?

A I believe they did.

Q And did they advise you that if you give a false statement, they could charge you with perjury?

A I believe that was said.

Q Did you ever read that statement and sign it?

A I didn't ever read any statement.

Q They never showed you any of these statements, and you never read any of these statements, and you never signed any of these statements?

A I may have signed them. I am not sure. I don't remember signing them. I know I didn't read them.

Q All right. So, in the third statement, you still insisted to Paul Laurie and John Feltgen that you had no knowledge of Patty ever being in that truck and no knowledge of any homicide; correct?

A I told them I didn't remember if she got [356] in the vehicle, that to my recollection, she didn't.

Q Now, that night that you were there at the Banana Boat, what time did you arrive?

A Somewhere after six, shortly after six.

Q And did you smoke any marijuana there?

A I had a little, a little bit.

Q Just a little bit? How much liquor did you drink?

A Quite a bit.

Q What's quite a bit?

A Oh –

Q A fifth?

A Throughout the night, it was probably getting close to that, in mixed drinks.

Q A fifth of seven and seven, is that your drink?

A That's what I was drinking.

Q Was that seven and seven?

A Seagrams and seven.

Q So, you drank about a whole bottle of liquor that night, a fifth of liquor that evening?

A It's hard. I don't know how many shots are in a fifth, but –

Q Sixteen or seventeen?

A At least.

[357] Q More?

A I am not sure.

Q And you smoked a joint?

A Not a whole one.

Q Half a joint?

A I probably took three hits.

Q Did anybody else take any hits with you?

A No.

Q Just You?

A Yes.

Q And during that time, while you were getting drunk – you were drunk?

A I was drunk.

Q Were you with Denny the whole time?

A No.

Q Did you have occasion to observe how many drinks Denny had?

A When I come around and looked around the corner, they had drinks.

Q Everytime?

A There was a glass on the table.

Q Did you know Denny to be a heavy drinker, when he goes out drinking on New Year's Eve?

A The few times that Denny and I went out, yes, we drank.

[358] Q Heavy? Everytime you went out, he was a heavy drinker?

A With me.

Q So, you don't really know how much Denny had to drink that night, you were pretty drunk yourself; right?

A Correct.

Q And you don't know how many drinks Denny had that night?

A No, I don't.

Q Would you say he was drunk too?

A I –

Q With all the drinks that you had, were you in a position to determine whether Denny was drunk also?

A I didn't make it a habit of judging other people's sobriety.

Q So, you don't know if he was drunk or not?

A By our arguments that we had about driving, I would say he was moderately drunk.

Q Moderately drunk. You said you were drunker than he was?

A Yes.

Q But you don't know how many drinks Denny had that evening?

[359] A No, I don't.

Q Fourth statement, do you remember that one? It was taken February 27th – no, I'm sorry, that's your birthdate; isn't it?

A Yes.

Q It was taken January the 11th, 1982, 4:25 p.m. Do you remember that statement? This was down here at the

Broward Sheriff's office; right? Remember that statement being taken there?

A A couple of statements, different.

Q Do you remember what you said in that statement?

A I am not sure which statement down here.

Q Let me ask you this: You state now that Patty got in the truck with you and Denny; right?

A Yes.

Q Did you force her into the truck?

A No.

Q Did Denny force her into the truck?

A No.

Q She got in the truck of her own free will?

A Yes.

Q And you were all going to go out and get something to eat; right?

A Yes.

[360] Q When did you decide, Gary, to change your testimony from you and Denny had nothing to do with it, to Denny did it all, and you did nothing? When did you decide to change your story?

A It wasn't really a decision to change my story. I was dealing with having my face in my hands, screaming at him.

Q Well, you didn't actually see what happened, did you?

A No.

Q You just know that there was a struggle outside the vehicle, that Patty didn't get back into the vehicle?

A Correct.

Q And you don't know what happened outside the vehicle?

A No.

Q Well, all in all, you made another statement too, June the 4th. That was after Denny was arrested for running a red light down in Georgia, another state.

Now, you came back here, and you tried to locate the body of Patty, and you weren't able to find anything that was familiar. Why was that? Is that because you were so drunk, you didn't know where you [361] were going or what you were doing?

A I don't know why I couldn't.

Q Do you attribute it to the fact that you were so drunk that you didn't know what you were doing or where you were going?

A I attribute that what happened was so traumatic that it was blocked out of my mind. My mind wouldn't deal with it. When I sat up, on the way back, when I sat up, everything that happened was just blocked out.

Q Well, did you attribute the fact that you were unable to help Patty was because you were in such a state of drunkenness that you couldn't do anything?

A Yes.

Q So, when you tried to do something, you described Denny as being possessed?

A That's the way I see him.

Q You mean demonic possession, possessed by the devil? Is that what you mean?

A That's the way I seen it.

Q Describe what you mean by that. You said something about his eyes?

A The pupil would roll in his head and all you would see was white.

Q What else about his voice?

[362] A It got real deep.

Q Would it sound like Dennis' voice?

A No.

Q And that's when you feared him, when he got to that stage?

A Oh, yes.

Q Did he ever get to that stage when he was drunk?

A Once.

Q And his eyes would roll back, and his voice would change, when he was drunk?

A One time when he was drunk, and one time when we were kids playing football with my other brother. He chased me down the road for a half a mile.

Q But you have seen the eyes roll back and that?

A Oh, yes.

Q His voice would change, when he was drunk?

A Oh, yes.

Q You also had an interview and a statement with a reporter, did you not?

A I had a reporter once call me at home.

Q In regards to this case?

A Yes.

Q Did you ever indicate to that reporter or [363] to your brother that you were going to make a million dollars out of the story of this case?

A No.

Q Did you ever tell Denny that?

A No.

Q Where did that come from?

A Where did –

MR. HANCOCK: I don't want to object, but he is assuming fact not in evidence.

MR. RICH: Well, I am asking if he ever said that, Your honor.

MR. HANCOCK: Well, He said no.

Q (By Mr. Rich) Did you ever say that to anyone?

A No.

Q Have you ever been under the treatment of or hospitalized in a psychiatric or mental hospital?

A I committed myself once.

Q When was that?

A I am not sure of the date. It seems to be around '83, '84.

Q Eighty-three or eighty-four?

A I got in a jam at work at Oldsmobile and got thirty days off and –

Q Thirty days off suspended?

[364] A Thirty days suspension from work, and my committing [sic] man said if I commit myself to an alcohol program, I could get paid for the time off.

Q Do you have a problem with alcohol abuse?

A Yes.

Q Do you have a problem with drug abuse?

A No.

Q Do you admit to using drugs?

A I smoked marijuana, yes.

Q That's a drug, isn't it?

A I suppose.

Q Is it?

A I never looked at it as a drug, no.

Q Now, when you were in this psychiatric hospital, how long were you there?

A I was there for approximately two weeks.

Q And did you have any problems that you discussed with psychiatrists?

A Yes, work problems, work related problems.

Q In regards to what, alcohol?

A Yeah, alcohol and why I didn't get along with some of the people I worked with.

Q Would you classify yourself as an alcoholic?

A Yes.

[365] Q Do you have problems with it now, or did you get –

A No, I have learned to control my drinking.

Q Now, while you were in this place – that was Forestview Hospital; right?

A Yes.

Q Did they put you on medication called lithium?

A Yes.

Q What's lithium for, if you know?

MR. HANCOCK: Judge, can we approach the bench?

(The following proceedings were had at the bench, between Court and counsel, out of the hearing of the jury.)

MR. HANCOCK: Judge, I don't want to instruct Mr. Rich, but you know, I think there is a certain point I

have to object, and I don't think I've made any objection up to this point in the whole trial, but I think we are talking about an incident in eight-three [sic] or eighty-four. I don't see what relevance that has to an incident that occurred in eighty-one or eighty-two.

If Mr. Rich is going to tie it in somehow, [366] or if he is going to quit asking this line of questioning, I will withdraw my objection.

MR. RICH: I am through. I will just ask about the lithium, if he knows, real quick.

MR. HANCOCK: Okay. I think this is all, you know, not proper.

MR. RICH: The credibility of the witness –

THE COURT: Go back to the credibility at the time of this offense. You're about finished with it?

(Thereupon, the following proceedings were resumed within the presence of the jury:)

MR. HANCOCK: Judge, I respectfully withdraw my objection.

Q (By Mr. Rich) Do you know what lithium is for?

A Pardon?

Q Do you know what lithium is for?

A No.

Q They gave you lithium –

A Yes.

Q – in the psychiatric hospital?

A Yes.

Q Out of all of these statement and your [367] testimony, when I took your deposition October the 5th – you remember that, don't you?

A Yes.

Q What you are saying today is the truth?

A Yes.

Q What you were saying back in January is the truth?

A I didn't remember parts back then.

Q Would you say that the constant interrogation by these police officers, and your alcohol problem caused you to change your mind and –

A No.

Q – and change your story?

A No.

Q What do you attribute to the change in your story from January until today?

A My story really didn't change. I was just missing a little part that my mind blocked out. My mind wouldn't allow me to remember because of it being so traumatic to me.

Q Well, how did you reconcile the fact that in your statement in January you said one thing, and today you are saying another thing that's directly opposite to what you said in January?

A Pertaining to what?

[368] Q Well, for example, in January, you said you left Patty standing in the parking lot. Today you said she got into the truck of her own free will.

A At the time, I didn't remember anything from the time that we left that bar, until we got back in the apartment for years.

Q Why didn't you tell them, "I don't remember?"

A Pardon?

Q Why didn't you tell the cops, "I don't remember"

A Because I didn't know I didn't. It wasn't until after going over it in my mind, the screaming at him with my face in my hands and trying – and in my own mind having to deal with why I was like that and putting that – and I knew I was doing that on the way home from the bar, and I couldn't figure out why I was doing that on the way home from the bar, until all the –

Q So, you had amnesia, is that what you are trying to say?

A No. I said what happened was so traumatic to me –

Q So, you forgot about –

A – that my mind blocked it out.

[369] Q You forgot about it?

A My mind wouldn't allow me to remember it.

Q You forgot about it, but you didn't tell the police officers that you forgot about it?

A Because I didn't know.

Q This other girl, Delta, that you took out to the car, was she pretty drunk that evening?

A Yes.

Q Is that why you took her out to the car, because she was drunk?

A Yes.

Q So, today you are saying after five years you remember everything?

A Yes.

Q And back in January of 1982, you didn't remember anything?

A I remembered some things. Some things my mind wouldn't let me remember it.

Q When they were interrogating you, they showed you those pictures of Patty. Did they suggest to you any of the answers that you were to give?

A No.

Q They just asked you questions, and you gave the answers, to sort of jog your memory?

A Yeah, like the keys. They mentioned if I [370] ever seen any keys, and it was three or four minutes later –

Q You don't know who these keys belong to?

A No, never seen them before that night, and I didn't see them after that night.

Q That morning.

A Yes.

Q You didn't know whose keys they were?

A No.

Q Now, you said that you and Denny had a fight when you got back there because you wanted to go to the beach, and he didn't want to take you to the beach; right?

A Right.

Q Is that when the neighbor came out?

A At the apartment, yes.

Q And started saying something about quiet down, or something like that?

A Yes.

Q You were arguing then about Denny not taking you to the beach; right?

A Right.

Q Not about anything that had occurred that evening at the Banana Boat?

A Right.

[371] Q When you had that argument out there, were the two roommates, the two brothers, were they in the apartment at that time?

A Just one.

Q Which one, Randy or Barry?

A Barry.

Q Did Barry come to the window, or did Barry, come out and try to stop the argument?

A No.

Q Did you see Barry?

A No, I heard him upstairs when I went in.

Q How did you hear him? Did he say anything to you?

A Just made noises. If I recall, I heard the bed.

Q So, that argument was about Denny not taking you to the beach, not anything about what happened at the Banana Boat?

A Correct.

Q Now, at any time, did they charge you with any crime in connection with the Banana Boat as an accessory?

A No.

Q Or as a material witness or –

A No.

[372] Q Nothing like that?

A I was never charged

Q They never charged you with a crime?

A No.

Q They never charged you with perjury because of your inconsistent statements, or anything like that?

A No.

Q Now, it seems to me that you arrived home at about 1:30 in the evening; right?

A Pardon?

Q January the 1st, 1:30 a.m., you arrived home?

A It seemed about that, 1:30, 2:00.

Q And then you woke up again about six o'clock in the morning?

A Yes.

Q And when you woke up, it was because one of the brothers came in, Barry or Randy?

A Correct.

Q And you looked out, and you did not see the car?

A Truck.

Q This truck, this Datsun?

A Right.

[373] Q You don't know where Dennis went?

A No.

Q You don't know whether or not he received the scratches, as he described to you, in a fight with another man and another woman at another bar? You don't know that, do you?

A No.

Q Do you know if he received the scratches from the incident that you described at the Banana Boat?

A No.

Q Do you know if you received any scratches?

A No. Well, I had one on my nose.

Q On your nose?

A Yes.

Q From Patty?

A All I remember is getting up the next morning, and when I looked in the – went in the bathroom, I had scratches along my nose.

Q Could that be a scratch from Dennis in the fight that you had, the slap that occurred there? You did have a fight outside the apartment?

A Yeah, we argued.

Q He did slap you with his hand?

A I'm not sure, but I know we were arguing [374] pretty good. He usually did strike, you know.

Q Well, did you receive a scratch from Denny?

A I'm not sure. I just recall waking up the next morning and seeing it on my nose.

Q But this girl that Denny told you he got in a fight with, was a girl other than Patty; right?

A He told me he got in a fight with a guy, and the girl that was with him jumped on him.

Q And that was between the time that you went to bed at 1:30, and you woke up again at six or seven o'clock in the morning that that occurred?

A Yes.

Q Right?

A That is what he told me, yes.

Q And you don't recall any scratches on Denny, before you went to bed at 1:30?

A I never looked at him.

Q And you don't recall any?

A No.

MR. RICH: May I have a moment, please, Your Honor?

Q (By Mr. Rich) One last question. Does your brother have a problem with alcohol too, like you?

A When we were young, he went out drinking.

[375] Q Is he an alcoholic too?

A I wouldn't know. I am not to judge.

Q Have you been with him when he drank to excess?

A Yes.

Q How many occasions have you been with him where he drank to excess?

A Two or three times.

MR. RICH: I have no further questions.

MR. HANCOCK: Just a couple, with your permission.

REDIRECT EXAMINATION

BY MR. HANCOCK:

Q What would he do when he drank to excess?

A Everytime I was with him, he and I ended up fighting.

Q You said you don't recall, when you went to bed, the scratches on him; is that correct?

A Yes.

Q And you indicated you didn't look at him. Where was your head after he got back in the pick-up?

A In my lap still.

Q What were you doing at that time?

A Screaming.

Q And why were you screaming?

[376] A Because I didn't want to hear anything he had to say.

Q Now, Mr. Rich asked you about a statement you gave on January 8th, I believe, and January 9th; correct, where you made certain statements that you remember Patty was outside by the car when you left; is that correct?

A Yes.

Q And you indicated that you had attempted to black this out of your mind; is that correct, what had happened?

A I feel that's what happened. I remember sitting up. When I sat up, the next thing I said to him was "Take me to the beach."

Q And you didn't want to remember what happened; isn't that correct?

A Correct.

Q In fact, now besides the police, have you told anyone else that you were with Denny when he did this, and particularly, did you tell anyone in your family?

A I stated to my dad and sister when I got home that I felt I was there.

Q And when the police were talking to you, the more you talked about it, the more you remembered; [377] isn't that a fair statement, Gary?

A Yes, the more I talked, the more I started to deal with it, and these thoughts and these images I knew to be true, but couldn't explain.

Q And initially, you didn't want to tell the police about these images; isn't that correct?

A Yes, sir, because I couldn't put them in order. I didn't know where they were. What I knew, my face was in my hands leaving the bar, but I couldn't figure out why.

Q And now this isn't the first time you had told about what had happened; is that right?

A What?

Q You gave a full statement indicating what you remembered; isn't that correct, about Dennis outside telling you to get back in?

A Yes.

Q In fact, you indicated that the girl had begged for her life, didn't you?

A Yes.

Q And what were you doing, when she was begging for her life?

A All I remember is her yelling for him, and after I threw the stone, I got in the vehicle, after he told me to get back in the truck, and I put my face in [378] my hands and in my lap and just sat there.

Q In this first statement that Mr. Rich referred to, did you tell him about the fingernails that you saw the next day?

A Yes.

Q And you told him about certain items you had seen in the truck?

A Yes. In the first statement?

Q Yes.

A Yes.

Q And so it wasn't that you changed your other statements, it's just you started remembering more; is that correct?

MR. RICH: Your Honor, I'm just wondering if Mr. Hancock would like to get up there and testify. If he wants to take the oath, Your Honor, fine.

THE COURT: It was a question you asked.

Q (By Mr. Hancock) Now, you indicated that you had gone for some – and Mr. Rich referred to it as a psychiatric hospital. What type of hospital, what type of place, was it, Gary?

A It was – they had different words for different – they gave you evaluation tests before you [379] went in, and then put you to where they – you know, a ward that they felt would help you the most, and I was in the – I don't even know what they call it, but it was – I could leave the building any time I wanted. I just had to be back for the group therapy at certain hours. My psychologist was going to be there to talk to him.

Q He referred to it as you were committed. Were you ever committed to any –

A No.

Q And that was after this incident; correct?

A Yes.

Q Do you know how this incident, what you observed, how that has affected you?

A I have had a lot of problems at work because I would be working along, and I would be fine for months at a time, you know, and all of a sudden, things would start to come to me that would place me there, and I would have trouble dealing with it, and I would just sit

down and not get any work done because I was trying to figure out these little things that were coming to me.

Q It's been extremely difficult for you; is that correct?

A Yes.

[380] Q Now, Mr. Rich asked you if you were a suspect. Did the police ever tell you you were a suspect?

A No.

Q Did anyone ever tell you what to say?

A No.

Q And who, if anyone, told you just to tell what you remember, to tell the truth?

A You did.

Q How about the police officers?

A Yeah, they kept asking me about a forty-five minute time span that I couldn't account for in my statement.

Q And the more you thought about –

A I kept telling them-I was sleeping during that time.

Q And the more you thought about it, what happened?

A The more I thought about that forty-five minute time span, that they said I didn't know if I was accounting for it or not, but they told me that they had witnesses that say certain things, and that there is a forty-five minute time span that I am not dealing with, and they

wanted to know what I was doing during that forty-five minutes.

[381] Q And then there came a time when you gave a full statement indicating what you had done during the forty-five minutes?

A In dealing with this one thought that I never told them about, about my face being in my hands, in my lap, screaming, that I couldn't place. I never told them about that, until –

Q Was that before or after your brother was arrested?

A That I told them, or that I was dealing with it?

Q Well, I think you indicated you were dealing – when did you first tell them?

A I believe it was at the State Police Post in Iona, when they told me he was arrested, and I was sitting there, and I mentioned to him that for along time I had this thought and image that I couldn't explain, of my face being in my hands in my lap screaming at him, and I couldn't – and then all of a sudden, I mean it was like I vomited right there because all of a sudden, it just all – everything fell into place, the marks on his face, me screaming at him, throwing the stone. Throwing the stone came to me, and it all – I still haven't pieced to myself some things, but I don't have to understand, I just don't, and I'm [382] sorry, but I don't.

Q That's all right. Why don't you take a drink of water.

A It's not that. It's just dealing with this.

Q You feel somewhat responsible and guilty; is that correct?

A Well, of course. I couldn't stop him. I mean you know it's like jumping in icy water to save somebody from a plane wreck, or you know, what you are doing if you were there.

MR. RICH: Your Honor, can we take a brief recess?

MR. HANCOCK: I think that's all the questions I have, Your Honor.

MR. RICH: Well, I may have more. We'll take a brief recess.

MR. HANCOCK: Can I finish with mine?

Q (By Mr. Hancock) Now, you indicated that he was possibly moderately a little drunk; is that correct?

A Yeah.

Q Who was doing all of the driving that night?

A He always drove. He never let me drive. [383] One time he did. I think the second day I was there, he let me take the truck to the beach by myself once, but that was the only time.

Q Did he have any problem driving the vehicle?

A No, not that I recall.

MR. HANCOCK: Thank you very much, Gary.

RECROSS EXAMINATION

BY MR. RICH:

Q How would you know, you were so drunk, you couldn't tell, could you?

A I don't remember swerving around the road or anything.

Q But you were so drunk, you could really tell?

A Probably not.

MR. RICH: No further questions.

MR. HANCOCK: I have none. Thank you very much.

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[452] MR. HANCOCK: Yes, Your Honor. With your permission, we will call Captain Mark Schlein.

Thereupon, the State of Florida, further to maintain the issues on their part to be maintained, called as witness MARK SCHLEIN, who, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

THE CLERK: Please state your name and spell your last name.

THE WITNESS: Mark Schlein, S-c-h-l-e-i-n.

Q (By Mr. Hancock) What's your occupation, sir?

A I'm a captain with the Broward Sheriff's Office.

Q And how long have you been so employed there?

A This is my thirteenth year.

Q And what do your duties presently consist of with the Broward Sheriff's Office?

A I'm an executive assistant to the chief of staff.

Q Back in December of 1981 and January of 1982, what were your duties?

A I was in command of the Homicide Bureau of the Sheriff's Office.

[453] Q As a result, did you become involved in the disappearance of a young lady?

A Yes, I did.

Q Who was that young lady?

A Patricia Gifford.

Q When did you become involved?

A I first became involved in the homicide unit, when it was notified, I think the 2nd of January.

Q How did you become aware of it?

A As commander of homicide, it was my job to be aware of ongoing investigations, and we started looking into the matter, when we learned of the suspicious circumstances.

Q And what did you become aware of?

A Well, we learned that Patricia and her friend had visited the Banana Boat Lounge in Fort Lauderdale, and after that, Patricia had disappeared from the bar, and was not seen again, and after a day had passed, her friend was even more concerned, and we thought we had best look into it.

Q As a result, did you do anything personally in this case?

A I did. On January 6th, after the suspect in the case was identified – he was identified at that point as Dennis Paul Grant – we were able to locate [454] where he was living, and I visited his home in an attempt to locate him.

Q Where was that, sir?

A That was, strangely enough, just a couple of blocks from here, 665 Southwest Fourth Avenue.

Q Who was there, when you got there?

A Randy Eckman was the person living there at the time.

Q And what did you find out as a result of talking to him?

A Randy explained that –

MR. RICH: Objection, Your Honor, as to what Randy explained. That would be hearsay.

THE COURT: Sustained.

Q (By Mr. Hancock) As a result of what he explained to you, did you have occasion to look around the apartment?

A Not really. It was empty. The room that Dennis was in was completely empty.

Q What did you do after that?

A Basically nothing, personally, although our investigators, of course, were able to continue the investigation.

Q Did there come a time when you had occasion to put out a BOLO, be on the look out for [455] anything?

A Yes, we were.

Q What was that BOLO?

A We were able to identify that the suspect had fled the area in his employer's Datsun truck, so we were able to immediately put out a BOLO for the truck and the suspect.

Q And where did you put this BOLO for?

A We put it out nationwide.

Q Now, what happened to the case after that?

A The investigation continued with other investigators and next, of course, they were able to locate the brother.

Q Did you have any contact with anyone?

A No, other than my investigators.

Q Was there anyone else in this investigation that contacted you?

A Yes, the family, of course, as you would imagine, was very concerned. As a matter of fact, I will never forget the mom. She spent more time in my office than I did, really. She was there everyday. She was absolutely determined that the case would continue, and that it wouldn't lose interest, although technically, it was still a missing persons case.

Q What was her name?

[456] A Barbara Ryan, I believe.

Q Then there came a time later in the investigation when you learned something, years later; is that correct?

A Well, it wasn't years, Initially, I learned on the 22nd of January that the truck, which the suspect had fled Fort Lauderdale in had been located in Tampa, Florida, and we sent an investigator from the forensic team up there to process it.

Q When would that have been in January?

A January 22nd.

Q And what was the next thing that happened, that you became involved in, personally?

A We were advised – the Sheriff's Office learned, in May of 1986, I believe, that the suspect had been arrested up in Georgia, and we sent – I went up there.

Q Who did you go up there with?

A Sergeant Lauria.

Q What was your purpose in going up there for?

A I wanted to speak with the suspect and learn whatever I could about the disappearance of Patricia Gifford.

Q And when did you go up there, what date?

[457] A We flew up on May 28th, 1986.

Q Did you have occasion to come in contact with Mr. Sochor?

A Yes, I did.

Q What day was that?

A May 29th, the next day.

Q Where was that at?

A It was the interview room of Decalb County, Georgia, Sheriff's Office.

Q And when you initially talked to him, what name, if any, did he use?

A He was using a variety of names. The name he used with us was Michael Jacobs.

Q When he used that name, what did you tell him?

A Well, initially, for a long period, he would deny being Sochor and deny ever being in Fort Lauderdale, and we were – through the use of a photograph that we had obtained, that basically ended the denial phase, and he started to emerge.

Q When he admitted his name was, in fact, Sochor; is that correct?

A Yes.

Q And let me show you State's Exhibit 3 in evidence and ask you: Is that the photograph you [458] showed him?

A Yes.

Q Now, before you actually talked to him, did you go over anything with him?

A Yes.

Q What did you go over with him?

A The very first thing that we did was advise him of his constitutional rights.

Q Who did that?

A I did.

Q And how did you go about doing that?

A I used the standard Sheriff's Office rights warning form, which we read to the individual, as he reads it with us, then he initials after being explained each of his rights, and then signs the form.

Q Do you have the original with you today?

A Yes, I do.

MR. HANCOCK: May I have this marked, Your Honor?

THE COURT: Yes.

MR. RICH: Just move it in. We have –

THE COURT: What happened to the other one?

MR. HANCOCK: That was the copy.

THE COURT: Was that received or just [459] marked?

MR. RICH: They were received. I had no objection.

MR. HANCOCK: Maybe I will just keep this one then, if there is no problem.

MR. RICH: No, I don't care if you want to put the copy in.

MR. HANCOCK: I want to give this back to you.

MR. RICH: I don't think you can.

THE COURT: You can substitute.

MR. RICH: Let's substitute. Give me my copy back them.

THE COURT: It's the same number.

Q (By Mr. Hancock) After advising him of his rights, did you ask him if he understood his rights?

A Yes.

Q What did he indicate?

A He indicated that he did.

Q When did you first advise him of his rights? Is this in State's Exhibit 38 in evidence?

A Yes. Initially, it was at 9:10 in the morning, when I first met him.

Q After advising him of his rights, then you [460] talked to him; is that correct?

A Yes, we did.

Q Initially, after he admitted to being Sochor, did he still deny being in Fort Lauderdale?

A There was a short period of time, but basically, when he began to admit who he was, the story emerged that he was, in fact, living in Fort Lauderdale, that he had, what he described as problems with girls.

MR. RICH: Objection, Your Honor.

THE COURT: Overruled.

Q (By Mr. Hancock) Let me show you what's marked State's Exhibit FFF for identification and ask you to look at that and see if you recognize that.

A Yes, I do.

Q How do you recognize that?

A Well, I recognize the photograph of course, and those are my initials on the corner.

Q Is that when you talked to him on that day?

A Yes.

MR. RICH: No objection.

MR. HANCOCK: We move State's Exhibit FFF for identification to be introduced.

THE COURT: Maybe received.

[461] THE CLERK: Number 39, for the State.

Q (By Mr. Hancock) What happened after that?

A Well, the story basically emerged that –

Q Tell us what he said.

A He was living in Fort Lauderdale, and had a problem with women. Basically, it was an uncontrollable urge for sex that came over him. He couldn't control it on some occasions, and on this particular evening, New Year's Eve, he met Patricia Gifford at a bar in Fort Lauderdale, was able to get her into his pick-up truck, which was his employer's truck. She resisted his sexual advances, and he choked her to death.

Q Now, did you take an actual taped statement from him?

A Yes, I did.

Q Do you have the original with you today?

A I do.

Q May I have it? Did there come a time where you made a copy of the original?

A Yes, there did.

Q Do you have the copy with you?

A Yes, I do.

Q And whose voice is on this statement?

[462] A There would be three voices. There would be mine. There would be Dennis Sochor, and there would be Paul Lauria.

Q And looking at State's Exhibit GGG for identification, and I ask you if you recognize that?

A This is the original tape.

Q How about looking at this one, HHH?

MR. RICH: You can crack the seal, if you want to.

THE WITNESS: This is the duplicate that was made of the original.

Q (By Mr. Hancock) And why did you make a duplicate?

A I was asked by you to delete certain statements that were made.

Q Through order of the Court and stipulation, you took out certain portions that were not relevant to this case; is that correct?

A Yes.

Q And as a result, there is like a click, and then a click; is that right, where it was deleted?

A It's in there. It's hard to pick up, but there is a click, yeah. There are actually two sections.

MR. HANCOCK: Your Honor, at this time, [463] the State would respectfully ask State's Exhibit, the copy that was made by order of the Court, which would be HHH for identification, be introduced in evidence and played to the ladies and gentlemen of the jury.

MR. RICH: No objection.

THE COURT: All right, maybe received.

THE CLERK: State's 40.

Q (By Mr. Hancock) Can you come down and play it, if you would please?

MR. HANCOCK: Here is a courtesy copy I got for the Court.

(The following is a tape-recorded statement played in open Court, which portion of the record is not certified as to accuracy or content:)

"The following will be a tape recorded statement taken by Captain Mark Schlein of the Broward County Sheriff's Office. Statement is being taken in the Dekalb County Sheriff's Office interview room on Thursday, May 29th, 1986 and commences at approximately 1:35 p.m. on Thursday, May 29th, 1986. Statement is being taken in the presence of Detective Sergeant Paul Lauria of the Broward County Sheriff's Office, [464] and is being taken from the suspect Dennis M. Sochor, S-o-c-h-o-r.

Q Dennis, before I begin, let me just ask you to state your name, for the record, so we know who you are.

A I am Dennis M. Sochor.

Q And what is your date of birth?

A 2/25/52.

Q And what is your current address here in Atlanta?

A 315 Woodcreek Court, Roswell, Georgia.

Q Okay, and what is your social security number?

A 381-58-0738.

Q And where were you born?

A Lansing, Michigan.

Q Is there a phone at your home here in Woodcreek?

A No. We were going to be installed as soon as we could afford it, but at the present time, no.

Q I know we went over this at the very outset of our conversation, before we asked you any questions. I'd like to go over it with you [465] really, so the record is clear. Remember the form that we explained to you with your rights on it?

A Oh, yeah.

Q That you printed your name in up here?

A Yes.

Q And we went through the rights, which I'll again do very briefly. I told you that I'm a police officer, and before I ask you any questions, I want to advise you of

your rights under the law. Do you understand that I'm a police officer?

A Yes.

Q And did you write in yes?

A Yes.

Q I told you that you had the right to remain silent, that is you need not talk to me or answer any questions, if you do not want to, and you understand that, and you wrote in yes again?

A Yes.

Q I told you further that you have the right to talk to an attorney and have him here with you, before we ask you any questions. You [466] wrote in that you understood that?

A Yes.

Q And then I said if you cannot afford to obtain your own attorney, and you want an attorney, one will be appointed for you, before we ask you any questions, and you responded yes that you understood that?

A Yes.

Q I then said that if you decide to answer the questions now without an attorney present, you will still have the right to stop answering my questions at anytime, until you talk to an attorney, and you indicated you understood that by writing in the word yes?

A Yes.

Q And then I said knowing and understanding your rights as I have explained them to you, are you

willing to answer my questions without an attorney present, and again, you said yes?

A Yes.

Q Finally, we said should you talk to me. I indicated to you that anything that you said was going to be an official part of the record and could be introduced in a Court of Law [467] as evidence against you, do you understand that?

A Yes.

Q Did you then write your name in here again at the bottom, Dennis M. Sochor?

A Yes.

Q I believe you initially began to write in what, the word Michael?

A Yes.

Q Is that because you had sometimes used that name in the past?

A Yes.

Q Okay. Then we read this paragraph. I Dennis M. Sochor, have read this statement of my rights or have had it read to me, and I understand what my rights are. I am willing to make a statement and answer questions. I do not wish an attorney at this time. No threats or promises have been made to me. No pressure of any kind has been used against me, nor have I been tricked or fooled into giving this statement. I understand and know what I am doing. This statement will be used in a Court of Law against me. Do you understand all that?

A Yes.

SGT. LAURIA: Dennis, if you would we [468] want to get this as accurate as possible. If you would just speak up a little bit, so that it's recorded.

Q (By Capt. Schlein) Let's start at the beginning. When did you first get to Atlanta?

A Approximately two years ago.

Q And prior to coming to Atlanta, where were you living?

A In New Orleans, Louisiana.

Q And prior to New Orleans, where were you living?

A Fort Lauderdale.

Q I'd like to direct your thoughts to New Year's Eve in at about the time that you left Fort Lauderdale. This would have been in 1982, I believe, New Year's Eve, 1982. I want you to think back. Were you living in Fort Lauderdale at that time?

A Yes.

Q Whereabouts were you living?

A I was on the north part of town. I can't really remember the name of the street, but it was a rather nice apartment.

Q Were you sharing it with someone?

[469] A Yes.

Q What were the names of your roommate or roommates?

A I don't know. You mentioned them earlier. If you would of asked me before, I wouldn't of been able to remember, but it's Barry –

Q If you don't remember it, if you don't remember their names, all you have to do is say that.

A No, I didn't, before we were talking earlier.

Q Okay.

A But I –

Q You remembered their names earlier. Let me ask you this then; okay? Did there come a time around New Year's, when your brother came to visit you?

A Yes.

Q Can you describe that, when did he come?

A It was around New Years or the day or two days before I believe.

Q Okay. And he came visiting?

A Yes.

[470] Q Let's think back. Let's think back to New Year's with your brother down there and ask you if you remember going with him to a bar to celebrate New Year's Eve?

A Yes, I do.

Q Do you remember where this bar was located? Think, think now.

A It was on the west side of Fort Lauderdale, I believe.

Q Do you remember the name of the bar?

A I didn't, but I do now.

Q Oh, we haven't mentioned the name, but what name do you remember it as?

A This is difficult because –

Q Sure, I know it's difficult.

A I didn't –

Q I know it's difficult for you, and I appreciate your being honest with us. Do you remember the name of the bar?

A I didn't.

Q Do you remember it as you're sitting here now?

A Well, we discussed it earlier, so as you mentioned the name. It's familiar.

Q What's the name?

[471] A The name is Banana Boat.

Q Okay, why don't you describe what happened, as far as you can remember that night.

A Well, my –

Q Go ahead.

A My brother and I – do you mean at the bar or before the bar?

Q I just want you to be as honest with me now, as you were a few moments ago, before we turned the tape recorded on. You were at the bar. I guess you drove to the bar. What were you driving?

A Datsun pick-up truck.

Q And whose truck was that?

A It was my boss'.

Q And what kind of a business was it? Who did you work for at that time?

A I don't remember my boss' name.

Q Do you remember what kind of work you were doing for him?

A It was cleaning swimming pools.

Q Okay, and the truck was his?

A Yes.

Q Okay. What color was the truck?

A White.

[472] Q Pick-up truck?

A Yes.

Q So, you drove your brother to the bar. Do you remember that?

A Yes.

Q Describe what happened in the bar that evening, as you remember it.

A Well, we – we drank a lot of drinks, something I wasn't used to. It was the first time I drank in about a year-and-a-half, and I probably got – I know I probably – I got very well drunk, and we had been talking to several girls all through the night, I imagine. I know I was talking

to several girls. I don't know how many it was, and I know we were talking to the two girls you mentioned here.

Q Do you remember anything about the conversations?

A I don't know.

Q Okay. I'd like to show you the picture that was taken in the bar of you that night and ask you, of course, if you recognize the man in the picture?

A Yes.

Q That was the bar that you were at. [473] Do you recognize the girl? Think now.

A I remember a girl that was funny and happy sitting next to me. I can't remember the face.

Q And do you remember anything about the girl herself, or what she may have told you, or what you were talking about?

A I remember we discussed, you know, having sex and things like that.

Q And what was her attitude?

A I remember she told me she had a boyfriend, things like that.

Q Did she indicate where she was working, what she was doing down here?

A No, not that I can recall.

Q Did she indicate if she'd been down here for a long time or was new in the area?

A Possibly, but I don't remember, you know, much of the conversation.

Q Okay. She was alone, or she was with friends?

A She was with friends, I think.

Q What happened after you asked her to have sex, and she said no? What happened next?

A I remember my brother and I leaving [474] the bar, and I drove my brother to the apartment.

Q And then what happened?

A And I remember leaving the apartment by myself, and from there on, it gets hard for me to remember that day.

Q Did you drive back to the Banana Boat, after you dropped your brother off?

A I possibly could have. It's hard for me to recall.

Q And if you had driven back to the Banana Boat, would the girl and her friends still have been there?

A Possibly, yes.

Q Okay, what happens when a girl says no to you? What happens when you get that urge, as you described that something inside you says you need a woman, you need sex? What happens when that – the woman that you want says no? What does that do to you?

A It's hard to describe. It's like an inner charge builds up and builds up, up to a point of I have say no – no control. No mental control of anything, of anything.

Q You feel the need to force yourself [475] on the girl, do you? How would you describe it? What happens to your inside?

A Inside, that's – I'm trying to figure the word to put out.

Q Take your time.

A It's a great energy, energy feeling, just like if you ever been a fright or terrified or something, just a big build up.

Q And it's released when you force yourself on the girl?

A It's – you know, in the past, when it's happened, I guess I can't say it's satisfying or there is complete release. It's just charged up, and at the onslaught of the ones I do remember, it was a very guilt, very terrible feeling.

Q Do you remember anything happening that night?

A Other than drinking at the bar and talking and taking my brother home, I don't.

Q Well, you told me a few moments ago. What were you describing to me? Didn't you talk about a fight?

A Oh, yes.

Q Well, why don't you describe what [476] you remember about the fight that evening.

A In the morning when I woke, my brother told me that there was shoes and something – a purse in the car.

Q And when you got out, and you saw them in the car, what did you do?

A I got scared because knowing that the night before was one of those nights like when I awoke and didn't know what was going on and something might of happened.

Q Did you have the urge that evening?

A As I recall, yes.

Q And she also said no, she had a boyfriend?

A Yes, I believe so.

Q When you got up in the morning, and you saw the purse and the shoes in the car, what did you do? What did you think?

A I thought that there's a possibility that something happened, that had happened previously other times.

Q Meaning what?

A That I might of forced myself on another woman.

Q Did you notice anything about your [477] face in the morning?

A Yes.

Q What did you notice?

A There were scratches on it.

Q Okay, where did these scratches – what did you think might have happened? You found in the morning an unknown girl's purse and shoes in your car, your face was scratched, you had that urge that night before, she

said no. What did you think? What terrified you? What were you thinking? What did you think had happened?

A I had committed another rape possibly, probably.

Q As you sit here now, what do you think? What do you think you did to that girl, as you sit here right now talking to me?

A That I raped her, another girl.

Q What did you do with the purse and the shoes?

A I believe I discarded them in a trash can.

Q Did there come a time when you left Fort Lauderdale?

A Yes.

[478] Q Okay, when was that? What made you leave Fort Lauderdale?

A I saw my picture, and I believe my brother's picture and a girl.

Q All right, describe it now. Where did you see you picture?

A On television.

Q And you saw a girl's picture?

A Yes.

Q As you sit here now, do you remember what picture that you saw, what girl's picture you saw on television?

A I don't remember the picture, but as we were talking earlier, I know it would have been the picture of the girl we were talking to.

Q Think back now, when you saw the picture of the girl, when you saw it back then in early January, 1982, when you saw that picture on television. Did you recognize the girl as the girl you were talking to in the bar?

A Yes.

Q And you recognized your picture, of course.

A Yes.

Q And you were terrified, and what did [479] you do and why? Why were you terrified?

A I didn't recall what had happened, but I could only estimate that I had, in fact, committed another rape and was terrified of the fact, so I decided to leave town.

Q How did you leave town?

A I took my boss' truck.

Q The pick-up truck?

A Yes.

Q And where did you take it to?

A I took it to Tampa.

Q What did you do with it in Tampa?

A I discarded it someplace. I don't recall, just packed it and locked it and –

Q And left it?

A And left it.

Q Then where did you go from there?

A From there, I went to a bus station and went to New Orleans, Louisiana.

Q I'd just like to clear one minor point. When we talked earlier and the matter of the items in the truck came up, we had not given you any indication on that whatsoever, however, you brought up the fact there was a shoe in the truck; correct?

[480] A Yes.

Q And you said there was another article in the truck. That was the purse; right?

A I believe so.

Q But it could have been another article; is that correct?

A Yes, possibly. I can't recall.

Q So, you're sure about the shoe, and you're sure there was another article, but you're just not sure what that article is; correct?

A Yes.

Q Okay. May there have been more than a shoe and a purse in the car, in the truck?

A Possibly, yes.

Q Okay, whatever property was in there, besides a shoe or purse, whatever would have been there would have been discarded by you, thrown away?

A Yes.

Q Okay. Why do you think you do that kind of thing? Why do you think it is that you do this kind of thing, that you attack these girls? What causes it?

[481] A I only wish I knew. Cause if I knew, it would never happen. I – I don't, I don't know. I know I feel terrible and innerhurt when they have happened.

Q After you have done it to a girl, do you feel guilt?

A Yes.

Q Do you feel sorry for what you have done?

A Yes, tremendously sorry.

Q Well then, why do you do it?

A (no response.)

Q Have you felt the urges since this New Year's Eve in Fort Lauderdale with this girl?

A Yes.

Q Okay, I'd simply like to reflect for the record that side one of the tape has expired, and we are now flipping over to side two of the tape. It is now Thursday, May 29th, 1986 and the time is 2:06 p.m.

Dennis, just to clear up matters, for the record, after the tape expired, and I flipped it, have we discussed this case, while the tape was being changed?

[482] A No.

Q Okay, let's continue then. I asked you if you felt this urge, since that night in Fort Lauderdale, and what were you saying?

A Yes. I have dated several times. I can say that I haven't felt it as much because I – I don't drink too much, but I have noticed that at times when I do drink, the urge is, you know, more prevelant probably.

Q You think then that alcohol may somehow in some small way work to trigger this rage?

A Yes.

Q What have you done up here to fight the rage, to fight that thing that makes you do this kind of thing?

A I know my life is much more active. I play tennis, and I have just a lot of good friends and spend most of the time visiting and things like that.

Q Do you think you have this thing inside of you licked, or does it still scare you?

A It scares me because, you know, I have felt the urge, you know, at parties and [483] things like that, but somehow just some control came over me, where I know I have the strength that some control came over to stop me. It – I mean I felt it working up, but something somehow thank God somehow some control took over.

Q Thinking back to that night in Fort Lauderdale, you told us there were a lot of things that you don't remember. Is it unusual for you to wake up after one of these things have happened and be sort of in a fog? Has that happened to you in the past, so that you don't remember everything clearly?

A Yes.

Q Does that happen? What causes this lack of memory, do you think? Do you think it might be guilt?

A Probably.

Q Do you think it might be because you just don't want to remember it?

A That's difficult to answer, not – I am not sure what it is. I don't know if you understand, but –

Q Yeah.

A I don't understand, so I think it's the guilt part of blocking it out, but that's [484] not me.

Q In other words, you don't want to admit to yourself that it's you that's doing this?

A Yes, I don't – I don't associate myself with doing it, although I am aware that it has been done, if that makes any sense.

Q Sort of like you feel – you feel that something inside you is doing it, but you can sort of separate that from you?

A Exactly. That's – that's it totally. I cannot associate myself with that action.

Q Don't you feel frightened or terrified by this whole thing, this whole rage that builds up inside you that makes you do these things, this thing to girls? Doesn't that scare you?

A Yes. It's not that I go out thinking that something might happen. It's just when I feel it starting to take place and in the situations I've been able to control, that's when I'm the most terrified, you know, that it could of taken place again, I guess.

But it's not something that I walk around [485] and – I fear certain times it's not just sexual. It's other times. it's like I play tennis, and I've been playing a lot of tennis and on certain calls where the ball might of hit the outside line, and I felt it hit the line, and I was called out, and I get sometimes quite upset and sort of lose maybe control of my emotions, which I try to be very easygoing.

Q You know your brother has described to us the actual abduction and rape. Can you think of any reason why he would be lying to the police?

A No.

Q Okay. Let me ask you this: Have you given into this rage? Have you attacked any other women that I'm not aware of?

A No.

Q Since you have been up here in Atlanta, for example, in this area, have you attacked any other women?

A No, I haven't

Q How can you be sure?

A I haven't dated much, and its somehow, usually I know when I have done it, after it's finished. During it, I am not aware [486] of it, but after it's over, then I'm aware of it.

Q You have that feeling that you have done something bad?

A Yes, or in fact, yes, I have.

Q Was that the feeling that you wake up with that morning in Fort Lauderdale?

A Yes.

Q That terrified you, when you saw the scratches on your face?

A Yes.

Q That terrified you, when you saw the girl's property in your truck?

A Yes.

Q And that triggered you to run like heck, when you saw her picture on TV?

A Yes.

Q Is there anything that you want to add at this point?

A I guess I can only add that apparently with what has happened, I am guilty of.

Q If you had to say anything to Patty's mother, what would you say to her?

A I would say if God could give me the [487] power to bring her back, I would, or if I could take my life in place of hers, I would. That – I don't know if it were my daughter, how I could forgive a person.

Q If it were your daughter what?

A How I could forgive a person. I don't know what to say. I'm so deeply sorry, somehow that just isn't enough. I can never cry enough tears for the hurt and pain I have caused.

Q Do you think you could take me to where you placed her body?

A I don't –

Q And put her to rest?

A I am not sure because I don't recall the evening.

Q Do you think you'd be able to find the place where you placed her body in Fort Lauderdale?

A I just – if I could recall, I will. At this time, I don't know.

Q Was it in Fort Lauderdale, or was it up where you left the truck that you left the body?

A I know it wasn't where I left the [488] truck because when I left, I was very sober, and I recall there was just me.

Q I'd like to indicate that I'm gonna just initial the bottom righthand corner of the bar photograph with Dennis and the victim Patty, put my initials MHS in the lower righthand corner. I'd like Sergeant Lauria to put it there also. Sergeant Lauria, is there anything else that you'd like to add?

SGT. LAURIA: I'd like Dennis to place his initials here, also.

Q (By Capt. Schlein) Yeah, just initial right by Sergeant Lauria's initials there, if you would. Okay, reflecting that he again started to write Michael, I believe, the initial M, and he placed his initials DS under Paul's initials. Is there anything that you want to add, Dennis, before I complete this statement?

A I guess we were discussing earlier, I'm somehow grateful that, you know, I have been found and that possibly that – I know that I want this problem I have to be taken care of. I have tried to lead a good life and help you people ever since I left Fort Lauderdale, and I [489] want to continue doing that the rest of my life.

Q Dennis, let me just ask you this: Since we met you today, have we, Paul or I, mistreated you in any form or fashion, or have we treated you fairly?

A Yes, you have.

Q Have we treated you like a man?

A Yes.

Q Have we mistreated you in anyway?

A No.

Q In fact, you have had your coffee and lunch and been allowed to go to the restroom whenever necessary?

A Yes.

Q Does that basically tell the story, Dennis?

A Yes, it does.

Q Paul?

At this point, I'd like to complete this statement. It's Thursday, May 29th, 1986. The time is now 2:19 p.m. in the afternoon."

(Thereupon, the tape-recorded portion concluded.)

Q (By Mr. Hancock) Thank you. Now, it indicates on the copy that, in fact, side two was [490] turned over?

A Yes.

Q Now, can you explain that?

A Yes, sir. The original tape that we made in Georgia was a similar tape, and the original side one expired, and at that point, what we do is manually change it, flip it over in the recorder. What we did when we made the duplicate at the Court's request, it was on a forty-five minute side, so we played the entire tape, minus deletions, on one side.

Q Now, I hear in the original, there is a little sound, like this (indicating), like that. What's that sound?

A As I remember now – I didn't pick it up then – I think Dennis – I think Dennis or Paul was clicking a pencil, and I wasn't focused on it, but I definitely heard it now. I think it's a pencil clicking, and it's a lot louder with the microphone that close.

Q Now, after he gave that statement, what if anything did you do?

A We then flew back to Fort Lauderdale that evening and –

Q Who flew back to Fort Lauderdale?

A Dennis, Paul, and me.

[491] Q And what happened, when you got back to Fort Lauderdale?

A I drove him by the Banana Boat Bar, where this happened, and we did a walk-through of the parking lot, and he became very emotional, as he did at the end of the statement, and basically at that point, came out with the

words "Oh, God," or "Oh, God, I killed her. I choked her," or words to that effect, and at that point, I went back to our office at the Sheriff's Office with Paul and Dennis, and we took a second statement.

Q And State's Exhibit 38 in evidence, did you go over another rights form with him at that point?

A There is a second statement. We readvised him of his rights at the beginning of the second statement. I don't know if you have that one. You have the original and this duplicate, and then there is a second statement, which I have here.

Q How long was that statement?

A Approximately twenty or twenty-five minutes, as I remember. It was clear to Paul and I, after we left Georgia, that he wasn't telling us the whole story. It was a beginning, but clearly, there was a lot he was holding back.

Q As a result, that's why you took him by [492] the Banana Boat; is that correct?

A It was hopefully something that would serve as a catalyst to get the rest of the story out, and in fact, it did help because he became very emotional.

Q And whose voices are on this tape?

A The same three people, Paul, myself and Dennis.

Q And let me show you States Exhibit III for identification and ask you if you recognize that?

A Yes.

Q Is that the original?

A This is the original tape number two.

MR. HANCOCK: Your Honor, at this time, the State would respectfully ask that this be introduced into evidence, State's III.

MR. RICH: No objection.

THE COURT: Received.

THE CLERK: State's forty-one.

MR. HANCOCK: Would the Court want us to start playing the tape? It's about a twenty/twenty-five minute statement, or would you want to recess for lunch?

THE COURT: No, let's go ahead.

Q (By Mr. Hancock) With permission of Judge [493] Seay, would you come down and play this, please?

(The following is a tape-recorded statement played in open Court, which portion of the record is not certified as to accuracy or content:)

"CAPT. SCHLEIN: I'd like to reflect for the record that it is now 11:29 p.m., Thursday, May 29th, 1986. Location is the Broward County Sheriff's Office, Administrative Office Interview Room. Present are myself, Captain Mark Schlein, Detective Sergeant Paul Lauria, both of us of the Broward County Sheriff's Office, and we're speaking with the suspect Dennis Sochor. This will be a continuation of the interview that we conducted with Dennis earlier today.

Q Before we begin, Dennis, I'd like to very briefly – I know you've heard these rights given to you by me two

times already today. I want to go over them one more time real quickly. You understand that both Paul and myself are police officers?

A Yes.

Q You understand that you have the right to remain silent, that is you need not [494] talk to me or answer any of my questions, if you do not want to? Do you understand that?

A Yes.

Q That you have the right to talk to an attorney and have him here with you, before we ask you any questions. Do you understand that also?

A Yes.

Q That if you cannot afford to retain your own attorney, and you want an attorney, one will be appointed for you free of charge. Do you understand that?

A Yes.

Q If you decide to answer my questions now without an attorney present, you will still have the right to stop answering my questions at anytime, until you talk to an attorney. Do you understand that?

A Yes.

Q Knowing and understanding your rights as I have explained them to you, are you willing to speak to me now without an attorney being present?

A Yes.

Q You understand that everything that [495] you're saying is being tape recorded and your answers to my

questions will be introduced as evidence in a Court of Law against you, do you understand that?

A Yes.

Q Have we in anyway, shape or form mistreated you, pressured you, or made you any promises of any kind?

A No.

Q Have we treated you fairly?

A Yes.

Q Are you making this statement of your own free will?

A Yes.

Q I'd like to reflect for the record that upon landing in Fort Lauderdale, we drove first to your apartment, where you were living while you were in Fort Lauderdale; is that correct?

A Yes.

Q That's the apartment near the Broward County Courthouse?

A Yes.

Q And from there, following directions given by you, we wound up at the Banana Boat on [496] State Road 84; is that correct?

A Yes.

Q That was, in fact, the Banana Boat Lounge that you visited that evening on New Year's Eve; is that correct?

A Yes.

Q Now, while you were walking around the Banana Boat Lounge and parking area with us, you remembered some very important things about this case, didn't you?

A Yes.

Q I'd like to go over them with you now. Do you remember speaking with that girl, Patty?

A Yes.

Q Now, where was it that you remember speaking with her?

A At the bar.

Q Okay, did there come a time throughout the evening that you were speaking with her? You were in the bar speaking with her?

A Yes.

Q And what basically were you saying to her?

[497] A I don't really recall the conversation, but we talked about everything.

Q Well, what were you – what were you asking basically? What did you want?

A Friendship.

Q Did there come a time when you spoke to her in tne parking lot?

A Yes.

Q Describe where you were when you spoke to her in the parking lot. This was, I guess, early that morning?

A Yes.

Q Was it before or after New Year's?

A After.

Q Where were you in the parking lot when you spoke to her?

A I was in the back, in the truck.

Q You were in the truck that we described earlier?

A Yes.

Q That you worked for, the company that you worked for?

A Yes.

Q Now, this is the front or rear parking lot, where you were talking with her?

[498] A Rear.

Q What did you say to her?

A I said would she like to come in and talk.

Q And what did she say?

A Yes.

Q So, did she get – what did she do after she said yes? Where did she get into?

A On the passenger side.

Q You were sitting in the truck, and she was sitting in the truck?

A Yes.

Q Where were you sitting in the truck?

A On the driver's side.

Q Where was she sitting?

A Passenger's.

Q What did you say next? What happened next?

A And we talked –

Q You'll have to speak up a little bit. I know this is –

SGT. LAURIA: Dennis, do you think that you could perhaps go through it, you know, on your own?

MR. SOCHOR: No, no.

[499] Q (By Capt. Schlein) Just listen to me. You were sitting in the truck, and she was sitting in the truck. Could you tell me what you said to her at that point?

A I remember we kissed a few times, and I just started getting stimulated.

Q What did you feel like?

A Like having sex.

Q Have you felt that way before?

A Yes.

Q And when you felt that way before with a girl, what happened?

A Well, not everytime, but some uncontrollable feeling took over.

Q What happened next?

A There was an argument.

Q About what?

A Having sex.

Q Did you ask her – did you want sex?

A Yes.

Q Well, what was she saying?

A No.

Q Describe what happened next.

A And I grabbed her.

Q Tell me what happened.

[500] A And then she hit me and –

Q Where did you grab her?

A I'm not sure, the hair or something, I don't know.

Q What was she doing?

A She started hitting me and –

Q What else was she doing?

A And started screaming.

Q Go on.

A I panicked, and I think she scratched me and –

Q What happened after she was hitting you and scratching you, go on. What happened next? What did you do?

A I think I got angry and began choking her.

Q While you were choking her, what was she doing?

A Fighting.

Q Go on.

A And then she didn't move.

Q What happened next?

A Then I didn't see her move, and I got scared.

Q What were you scared of?

[501] A Of what had just happened.

Q What did you think had just happened? What did you just do?

A I probably just murdered her.

Q When you looked at her, was she breathing?

A No.

Q What were you thinking?

A I just killed her.

Q What did you do next?

A I drove off.

Q What were you thinking?

A I don't recall. I could not believe what had just happened. I was just terrified.

Q What happens next?

A I drove and drove somewhere, and I took her out and laid her down somewhere in the bushes.

Q Could you describe what the area looked like?

A There were some houses along the road and a tree.

Q Did you conceal her in any fashion? Did you hide her body?

A I may have covered her in a blanket, [502] maybe. I don't really recall. I think I did, though.

Q You think you covered her with a blanket?

A Yes.

Q Did you have sex with her?

A No.

Q Why didn't you? Isn't that what started this whole thing?

A Yes.

Q Why didn't you have sex with her?

A Cause I thought I had just killed her.

Q Why didn't you have sex with her?

A Cause I believed she was dead.

Q Describe the area where you put her on the ground?

A It was a road. I don't know if it had an end, and there was bushes and trees on the side.

Q Was it cement? Was it grass? Was it woods? How would you describe it?

A Grassy and dirt road.

Q When she was on the ground, was she covered with anything?

[503] A I believe a blanket.

Q And how far was she from the main roadway?

A I'm not sure how far.

Q You carried her?

A No, I drove down the road.

Q How far did you drive down the road from the main road, to the point where it was that you stopped?

A It was a thousand, two thousand feet.

Q Was the road that you were on at that point paved or dirt?

A It was dirt, I believe.

Q What happened when you actually stopped the truck on that dirt road, what did you do next?

A I got out and placed her body in the weeds.

Q You got out of the truck, then what did you do?

A I placed her body in the weeds.

Q Was she heavy?

A Yes.

Q How far from the truck did you carry [504] her?

A I don't think it was too far, twenty feet maybe.

Q And you put her in some weeds, you said?

A Yes.

Q Did you cover her at that point with anything?

A I believe a blanket.

Q What happens next?

A I –

Q What were you thinking?

A I really don't know what I was thinking.

Q What did you do next?

A I believe I started crying on my way home.

Q Did you tell anyone what you had done?

A No.

Q The next morning when you got up, what did you find in the truck?

A A shoe and a set of keys.

Q Was there anything unusual about the keys?

[505] A There was something on it. I can't recall what.

Q Who did the keys belong to?

A I didn't know at the time.

Q Who did the shoe belong to?

A The girl I murdered.

Q And what did you do with the property, the keys and the shoe that you found in the truck?

A Placed it in the dumpster.

Q How did you feel about what you had done? You had just killed a girl, how did you feel about that?

A Terrified, shocked.

Q You had just done something horrible. What did you do? What did you do next?

A I don't recall the next day. I just don't know what happened the next day.

Q When you saw the girl's picture on the television, what did you think?

A I got terrified. I got in my boss' truck and drove.

Q Did you have any permission to take that truck anywhere?

[506] A Other than that was my personal truck to use.

Q Did you have permission to take it where you took it?

A No, I didn't.

Q Where did you take it?

A To Tampa Bay.

Q And that is where you left it, as you described earlier?

A Yes.

Q As you sit here right now, are you willing to help us try to locate the body of the girl you killed?

A Yes.

Q Will you work with us to see if we can find that body?

A Yes, I will.

Q Is there anything that you want to add to this statement? Is there anything that I haven't asked you that you want to tell me?

A I am so sorry. This is the hardest thing I've ever had to live with in my life. I sure wish it wasn't anything I had to live with, and if I had any control, it wouldn't be anything I had to live with. It is something [507] I'll never live with again.

Q Isn't it something that you knew you had within you and inside you for a long time?

A Yes, it's forgotten.

Q Is there anything else that you want to add?

A I'm so very sorry.

CAPT. SCHLEIN: Sergeant Lauria, is there anything that you want to add?

SGT. LAURIA: No.

Q (By Capt. Schlein) Dennis, does that about tell the story?

A Yes.

CAPT. SCHLEIN: At this time, I'll be completing this continued statement. The time is now 11:47 p.m., Thursday, May 29th, 1986."

(Thereupon, the tape-recorded portion was concluded.)

Q (By Mr. Hancock) Thank you. Did there come a time that you had occasion to take him out and look for the body?

A Yes.

Q And when was that?

A I believe it was the day after next, and Dennis, Paul and I drove out to various parts of [508] Southwest Broward County trying to find the body.

Q Where did he indicate that the killing had occurred, what County and State?

A Southwest Broward County, Fort Lauderdale, Florida.

Q And he described the area; is that correct?

A Yeah, he described it in the same fashion as his brother had. It was – we were trying to get specifics, but it came out as a paved road leading to a dirt access road leading to a grassy area, and we were looking for some piping and some culverts. Unfortunately, the way it looked in 1982 and the way it looked in 1986 – it was like a different world. What was under construction at that time, dramatically, if not completely, developed, Bonaventure, I-75. There's a whole development out there, and we couldn't find anything that looked the same to him.

Q Did there come a time where you had occasion to take another statement from Dennis?

A Yes.

Q When was that, Captain?

A June 1st, I believe.

Q Did you have occasion to go over anything with him at that time?

[509] A Yes, same procedure. We readvised him of his rights in the hopes that –

Q Let me show you State's Exhibit EEE for identification. Do you recognize that?

A Yes.

Q Those are the rights you went over with him again?

A This is a photocopy.

Q You have the original; right?

A Yes, I do.

Q May I have the original now? Thank you.

MR. RICH: You want to substitute that?

MR. HANCOCK: We ask that this be introduced. This hasn't been introduced yet, your Honor, EEE.

MR. RICH: No objection, Your Honor, for substituting for the copy.

THE COURT: It's not in evidence?

MR. HANCOCK: No, it's not in yet.

MR. RICH: The original isn't, but my copy is.

MR. HANCOCK: No, it's just been marked, but we've just introduced it now.

MR. RICH: No objection.

THE CLERK: State's 42.

[510] Q (By Mr. Hancock) Now, why did you take another statement from Dennis Sochor?

A Because frankly, I wasn't convinced he was telling me the whole truth, and in situations like this, as the truth begins to emerge, you can sometimes learn more about it, as the days pass. In this particular case though, we were satisfied that this wasn't the whole story.

Q And therefore, then you took a third statement; is that correct?

A Yes.

Q Do you have that with you today?

A Yes.

Q May I have that, please? Thank you. And whose voice is on this?

A Same. It would be Paul, Dennis, and I again. Nothing new emerged on that statement.

Q Approximately how long is this statement?

A I think it's about the same size, fifteen minutes. I can't really recall.

Q Look at state's Exhibit JJJ for identification ask you if that's the original of the tape.

A Yes.

MR. HANCOCK: Your Honor, at this time, we [511] respectfully ask this be introduced and played to the ladies and gentlemen of the jury.

MR. RICH: No objection, Your Honor.

THE COURT: Maybe [sic] received.

THE CLERK: State's 43.

(The following is a tape-recorded statement played in open court, which portion of the record is not certified as to accuracy or content:)

"CAPT. SCHLEIN: The following will be a tape recorded statement taken by Captain Mark Schlein of the Broward County Sheriff's Office on June 1st, 1986, commencing at approximately 3:35 p.m. in the afternoon. We're at the Broward County Sheriff's Office interview room in the Administrative Building. This statement is being taken in the presence of Detective Sergeant Paul Lauria and is being taken from the suspect Dennis Michael Sochor.

Q Now, before we begin, I know you had your rights read to you by me several times already, but I want to make it clear for the record that we have just done that again.

Dennis, do you understand that Paul and I are both police officers?

[512] A Yes.

Q Do you understand that you have the right to remain silent, that is you need not talk to me or answer any questions, if you do not want to. Do you understand that?

A Yes.

Q That you have the right to talk to an attorney and have him here with you before we ask you any questions. Do you understand that?

A Yes.

Q If you cannot afford to retain your own attorney, and you want an attorney, one will be appointed for you, before we ask you any questions. Do you understand that?

A Yes.

Q If you decide to answer the questions now, without an attorney present, you will still have the right to stop answering my questions at anytime, until you talk to an attorney. Do you understand that?

A Yes.

Q Knowing and understanding your rights, as I have explained them to you, are you willing to answer my questions without an attorney present?

[513] A Yes.

Q You are aware that anything you might answer to my questions will be tape recorded and can be introduced in a Court of Law against you. Do you understand that?

A Yes.

Q Did you print your name here?

A Yes, I did.

Q And then signed your name there?

A Yes.

Q After reading this paragraph – I have read the statement of my rights or have had it read to me, and I understand what my rights are. I'm willing to make a statement and answer questions. I do not wish an attorney at this time. No threats or promises have been made to me. No pressure of any kind has been used against me, nor have I been tricked or fooled into giving this statement. I understand and know what I am doing. This statement will be used in a Court of Law against me. Do you understand all that?

A Yes.

Q What I'd like to do now is bring your attention back to that New Year's Eve that [514] actually became January 1, 1982 at that Banana Boat. Starting there, trace back some of the steps that happened that evening. First of all, when you arrived at the Banana Boat on the New Year's Eve, were you alone or did you come with someone else?

A I came with my brother. My brother came with me.

Q Okay, in your own words, why don't you describe how that evening went, once you arrived at the Banana Boat with him.

A I guess it went as most any other evening would go when you're out with someone drinking, except that I

haven't drank for a year and a half, but outside of that, we sat down and talked most of the night.

Q There came a time when you met a couple of girls?

A Yes.

Q Now, did you recognize one of the girls from the photograph that you saw on television? In other words, you spent the evening talking with some girls; right? What were you talking about?

A Anything and everything, anything, [515] just you know – I don't know.

Q Can you remember?

A I can't remember the conversation. I do remember talking all night long.

Q You were speaking with them. How long would you saw [sic] you were talking with those two girls?

A Three, four, five hours.

Q So, it was a long, most of the evening?

A Yes.

Q Of course, one of those two girls was the girl that you eventually had the fight with?

A Yes.

Q And the other was her friend?

A Yes.

Q Did you at some point that evening leave the bar before the evening was through?

A Yes, at one point.

Q Did you leave alone, or did you leave with someone? Describe what happened.

A I don't know exactly how – I can't remember exactly how we said or what happened, but I remember taking my brother with me, when I [516] left.

Q So, there was a point when you left the bar with your brother?

A Yes.

Q Do you remember where you went with your brother?

A Well, I can't remember exactly where I took him, but I know he wanted something, to party more or something in the night, I think. I'm quite sure I took him maybe to the A1A strip.

Q To the beach area strip?

A Yes.

Q Okay, at that point, what, you left your brother out there?

A Yes.

Q And what did you do?

A I believe I was going to head into home, but instead, I went – I think I went back – I know I went back to the Banana Boat.

Q Did you have any reason for going back to the Banana Boat?

A Other than the fun I had and to talk more with the girls, I suppose.

Q When you got back, where were the [517] girls that you had been talking to earlier?

A They were in the back of the restaurant.

Q Okay, what do you remember about them, when you saw them? Were they both together? What do you remember when you came back in there?

A The one girl was standing beside the car, I believe.

Q Beside her car?

A Yes.

Q Do you remember what it was?

A No, I don't.

Q Where was her friend?

A If I recall, she was laying in the seat or something.

Q She was in the car?

A Yes.

Q Laying in the car. Okay, what did you say to –

A Can I say something?

Q Sure.

A A lot – some of the things that we talked about, first of all, I have to clarify I was very drunk that night. So just to sit down [518] and say what has happened, I

wouldn't be able to recall it as we went over things. I can see now that yes, these things did happen the way we are discussing, but just to sit down, and I wouldn't of been able to do it, but I'm not saying what is not, what we're talking about – yes, these things did happen as we're talking about them. It's just my recollection of them isn't as, you know, perfect as what it may sound right now.

Q Okay. When you – when you saw the girl beside the car, what did you say to her?

A I think I asked her if she wanted to sit in and talk, get in the truck and talk.

Q Do you have some doubt if you invited her into the truck? I'm trying to understand what you've said. You've already explained to us –

A The conversation is difficult.

Q There is no doubt in your mind that you invited her into your truck?

A I'm not sure if I just pulled in, and she got in, or if I said, I can't –

Q Okay, I understand what you've saying.

A I can't recall.

[519] Q But she got into your truck?

A Yes. At any rate, I do know that she did get in the truck.

Q You're sure about that?

A Yes.

Q Now, when you were back in the back of the Banana Boat parking lot, and she was in your truck, were there other people around that you noticed?

A No.

Q What happened after she got into your truck?

A We talked for – I don't know. I couldn't say how long.

Q And then?

A Do we have to go through –

Q Just briefly, I know you already told us what happened, but I think it's important that we understand what you were feeling. You indicated that you'd been drinking?

A I mean it's pretty rough. We talked for I don't know how long, and I know we kissed a few times. and the rest is difficult. It's just so hard for me.

[520] Q I know it's difficult. What happened after you kissed a few times?

A Being drunk, I get – there is points where I don't have as good a control as I would normally have not being drunk.

Q Was this one of those times?

A Yes, it was.

Q What did you do?

A I wanted to have sex with the girl.

Q And what did she say and do?

A I believe she said no, and I kept being persistent, and I think she probably yelled at me and something and made my emotion stronger.

Q What did you do?

A I believe I grabbed at her.

Q Was she fighting with you?

A Yes. When I grabbed at her, she started fighting and maybe hit me, and I think that angered me more, and you know the rest.

Q It was at that point that – did she hit you, or did she do something else, also?

A Well, she hit me, and we discussed scratch marks, although right now, I don't remember them. I'm sure, you know, it happened.

[521] Q You didn't get scratched?

A I probably did because from what I understand, everybody said I was scratched.

Q You don't remember seeing scratch marks on your face the next day?

A At this date, I don't.

Q Okay.

A There's so many things foggy, you know, about the night. Some things are very clear, and some things are very foggy.

Q Are you foggy about choking her?

A No, I am not.

Q Are you sure that you choked her?

A Yes.

Q And after you finished, what happened, after you choked her in the truck?

A I was terrified that I may have just killed her, and I didn't hear any movement or breathing, and I was quite sure I had, and so I took off to find a place to lay her.

Q I want to clarify one thing. For the past two days, you have been trying to help us locate the body; is that a fair statement?

A Yes.

Q Why is it important for you right [522] now to try and find her?

A Because when the police found me, I thought that they must of already found the body and having talked to you, I understand that they haven't, and if I was died and put down someplace, I guess my parents would want my remains home, and I guess that's the biggest reason.

Q Basicaliy then you'd like to find her to make it a little bit easier on her parents?

A Yes.

Q We haven't been able to locate the body. Can you try to explain why you're having such a hard time finding her?

A We've been driving and driving, and we just can't seem to locate anything that looks familiar, as there is a lot of construction in the area.

Q To pin it down as closely as we can, when you left the Banana Boat, do you remember what road you took at that point? I mean whether you were heading north or south, whether you were on a highway or not a highway? Do you remember what road you took from the Banana [523] Boat?

A I believe I was heading south on 95, not so much as I remember the drive, as I feel coming back, I remember the highway and traveling north.

Q So, you think you took I-95 south?

A I believe so.

A Do you have any recollection of how far south you were going?

A None too much, except I can say we were from fifteen to twenty minutes, possibly. Possibly, it's very hard.

Q There came a time when you exited from I-95?

A Yes.

Q Do you remember if you turned left or right?

A I believe I turned right.

Q What kind of a road was that that you turned on to?

A It was a highway. I believe it was a two-lane highway.

Q One lane in each direction?

A Yes.

Q And did you take a short or a long [524] ride on that highway that you turned off on?

A I think it was a long ride.

Q Could you estimate it in time as to how far you would have gone, how long you would have been driving on that road?

A I would say maybe twenty minutes to a half hour, possibly.

Q Now, when did you leave that roadway? Describe the kind of a road or what you did when you left that road, what you saw.

A Possibly there was a canal or something in the right or left, and there was a short turn to the right on this road.

Q Was the road that you made the right turn on to paved or unpaved?

A It was paved, I think.

Q Was it a multi-lane road or a two lane road, or how would you describe it?

A I believe a two-lane road.

Q What happened next? You made the right turn on to this road. How far did you take it?

A I would say no more than three quarters of a mile.

Q And then what happened?

[525] A And then there was a dirt – I don't know if it was a road or a dead-end path or a dead-end gravel –

something excavated on the left, and I turned down that road to the left.

Q That was unpaved, though?

A Yes.

Q And you don't remember if it actually had a road sign, or it might have been just a dirt path or an unpaved path? How far did you take that path?

A Six hundred feet, maybe.

Q At that point, what happened?

A I stopped and got out of the truck and laid the body on the right side.

Q Did you lay the body on the left side of the truck or the right side of the truck?

A On the right side.

Q And how far from the truck was the body?

A Fifteen, twenty feet.

Q Describe the location itself where you put the body down, in terms of what it looked like to you.

A There was some type of a building to [526] the front of the truck, which makes me believe that it was a dead-end road.

Q When you say a building –

A Some type of small structure, concrete, I believe. It was just hard to tell. It was dark, and it was still quite a ways up yet.

Q Okay.

A Maybe eight hundred thousand feet up ahead of me.

Q Well, wait a minute now. How many feet did you say?

A Eight hundred or more feet.

Q Okay, I got you, eight hundred or a thousand. I hear you. So, it was in the distance?

A But it was up in the distance.

Q What about the area itself, where you placed the girl?

A It was grssy [sic] to the right, and to the left, I believe it was just slightly grassy pasture land type ground.

Q Were there – there were no lights or anything around?

A It seems like I could see lights to [527] the left, but to the right was kind of a woods. On the right side was woods, and the left was quite open.

Q Were you able to turn the truck around, make a U-turn or what? Was the path big enough to turn around in?

A I believe, yes. I just turned around, drove around, going to the left of me, just turned around, I believe.

Q I would like to clear up one point. When this incident happened with Patty, when you were in the parking lot, and she was in the truck, and the fight

started, and she struck out at you, and you wound up choking her, when this happened, was your brother with you?

A No, he was not.

Q So, your brother was not present when you killed the girl?

A No.

Q Did you ever tell him about your killing the girl?

A I did not.

Q So, he didn't really – he wasn't there to see it, and you didn't actually tell him about it?

[528] A True.

Q When you left the Banana Boat, at that time, where was Patty? We know that she was possibly dead at that point, but was she in the truck, or where was she at that point?

A She was inside the truck.

Q Basically, I guess where she entered, on the passenger's side?

A Yes.

Q Did there come a time when you moved her from the front to the back?

A No.

Q So, the only time that you moved her was when you took her out of the truck at that location, when you finally put her on the ground?

A Yes.

Q I remember when we talked the other day. You indicated that you covered her with something. What was that you covered her with? Do you remember?

A Possibly a blanket. I'm not real sure.

Q Was it already in the truck?

A Yes.

[529] Q Yeah, go ahead. I'm sorry.

A I keep a blanket always in the truck because I was from the north, and it's just habit because sometimes it gets cold, and you get – and you get – sometimes you freeze. Also, I used to go to the beach a lot, and it was like a beach thing. I would lay out in the sand on it.

Q Did you bleed at all from any of the scratch marks that she gave you?

A I can't recall.

Q Did she bleed at all, as far you know?

A No, none.

Q Basically then, if you had to describe how it was that she died, what would have caused her death, as far as you can tell?

A I would say choking, that's all.

Q Choking her?

A That's all it would be.

Q Okay. Did she say anything to you?

A I don't recall. The state I was in it's taken a lot to recall what we discussed so far.

Q You weren't taking any drugs though [530] were you?

A Other than the alcohol, which we'd been drinking for three, four, five hours, no.

Q When you came back to the bar, did you have any plan or goal? Did you have any idea what you were going to be doing?

A No, I was just, just out driving drunk, and I remembered the people we had a lot of fun with all night. I guess I decided to go back for more.

Q Let me ask you this: It's been almost five years since you killed the girl. How have you been able to live with yourself? Has it bothered you? I mean has it bothered you that you did this thing?

A It did for a long time. I cried many nights wondering what I had done because I know that's something that – that I never could have done, and I guess slowly and slowly it wore off. The memory stuck every now and then, possibly maybe when I tried to get a job and use my real name, but still, I could somehow – somehow it just passed over somewhat.

Q How do you feel about it now?

A I have dreams about it. To be [531] honest, I had dreams last night, and this is only my third day here. The dreams are not pleasant by any means.

Q How do you feel about it right now? I mean now that you've admitted the truth, do you feel – do you feel

as though – do you feel any different now that you've admitted the truth to us?

A I feel like I finally am owing up to something that needed to be paid up a long time ago, but I don't feel any better for having done what I have done. I know I would like to, if it's possible, to be able to.

I know there is good in me, if somehow it can be brought out and somehow in the past five years, after hurting Patty, I've been able to control it, but there's been times that it's been tough on me, but I haven't been drinking heavily at all, and so I guess, you know, in a way, I've been able to control it, and I know I have controlled it. In the past five years, I have not hurt anyone.

Q Are you sure of that?

A I'm positive. And if it is possible to get help, I would accept any kind in whatever [532] form.

Q Is there anything else that you want to add or say?

A Just that I am deeply sorry for having hurt Patty, and I am deeply sorry for all the time and trouble I have caused everyone in this city and the police force and my family and I'm sorry for the time I have robbed my real self, too.

Q What do you mean by that?

A Because all the good that possibly could have came, it's been nothing but bad when my goal was to help not hurt.

Q Sergeant Lauria?

SGT. LAURIA: I have no further questions.

Q (By Capt. Schlein) Dennis, anything else you want to add?

A I don't know. I'm shaking inside, but I'll accept whatever the Courts feel is necessary and my punishment without any hardship or judgment. I really want to thank you Captain and Sergeant for treating me with kindness through this whole affair, when I don't feel much kindness should be given me, you have been very kind, and I – that says about everything.

[533] Q. Okay. I will conclude this statement of Dennis Sochor. It is now four p.m., Sunday, June 1st, 1986."

(Thereupon, the tape-recorded portion was concluded.)

Q (By Mr. Hancock) Now, let me show you State's Exhibit KKK for identification and ask you if you recognize that?

A Yes, I do.

Q And how do you recognize that?

A This is a copy of a consent to search form that I am seeing.

Q Now, what did he say to you he had done with the truck, his boss' truck?

A Took the truck to Tampa, when he fled Fort Lauderdale, and left it in Tampa, which in fact was where it was recovered.

Q Did he say he had tried to do anything with that truck?

A Yeah, there was attempts made to clean it and wash it down, to the best that he could.

Q Now, do you see the person in the courtroom today that admitted that he had choked and killed the victim in this case?

A Yes, I do.

[534] Q. Can you point him out, for the record?

A Dennis Sochor, sitting next to the defense counsel, in the short-sleeve shirt.

MR. HANCOCK: Your Honor, may the record reflect he's identified the defendant, Dennis Sochor? Thank You.

MR. RICH: Your Honor, do you want to break?

THE COURT: How long are you going to be?

MR. RICH: Hours, possibly. There was a lot of direct examination.

THE COURT: We will recess until 2:15. I remind you again, not to discuss the case.

(Thereupon, a lunch recess was taken to 2:15 pm. of the same day, Friday, October 16, 1987, at which time the following proceedings were resumed, out of the presence of the jury:)

MR. RICH: She can't appear Monday morning, she tells me. When can you appear, Dr. Livingston?

DR. LIVINGSTON: Monday afternoon, late.

MR. RICH: How late?

DR. LIVINGSTON: 3:30.

THE COURT: You know, I've got other trials. The State is going to rest in a little [535] while.

MR. HANCOCK: I figured it would be about another hour.

THE COURT: You'd probably rest today, if you had everybody here, and then arguments Monday afternoon, and charge the jury Tuesday morning.

MR. RICH: Never happen, Judge.

THE COURT: I was just asking Charlie. He will be as long as an hour with Mark Schlein, and he's got like three other witnesses. It just depends how long his cross examination is going to be.

MR. RICH: It's going to go past five o'clock.

MR. HANCOCK: I can't imagine why because I bet he will be up there an hour and –

THE COURT: Yes. You know, I don't tell you how to try your case, but I have to keep this trial moving. We can't drag this out to next Wednesday or Thursday possibly. You know, you got places to go. I've got another trial waiting Tuesday, you know.

MR. HANCOCK: Is there any way that you can come back for Charlie Monday morning? I [536] Think that's when he'll really get to you.

THE COURT: Or late Monday morning?

DR. LIVINGSTON: How late could you have me Monday morning, Mr. Rich?

THE COURT: Somewhere around noontime, and I think we can still have final arguments Monday afternoon.

MR. RICH: If I finish with her.

DR. LINVINGSTON: Twelve noon?

THE COURT: Dr. Zager, ten or ten thirty, and you could be here when?

DR. LIVINGSTON: Twelve noon?

MR. RICH: Yes, ma'am.

DR. LIVINGSTON: Twelve noon?

MR. RICH: I don't want you sitting here all day and not get to you.

DR. LIVINGSTON: I don't either. So, twelve noon, Monday.

MR. HANCOCK: Your Honor, can I, for the record, introduce the original with the clerk's office, for the purpose for the clerk to keep it in her possession and not give it to the jury?

MR. RICH: Which one is it? As long as you don't confuse them.

THE CLERK: This tape will now be [537] forty-four for the State.

THE COURT: All right. Bring the jury in, please.

(Thereupon, the following proceedings were had within the presence of the jury:)

THE COURT: Good afternoon, members of the jury, Counsel concede the presence of the jury?

MR. HANCOCK: Please the Court, State does, Your Honor.

MR. RICH: Yes, please.

THE COURT: You are still under oath from this morning.

THE WITNESS: Yes, sir.

MR. RICH: May it please the Court.

CROSS EXAMINATION

BY RICH:

Q Dective [sic] Schlein, during the recess, we found out that certain portions of the tape were not transcribed. Do you recall that?

A Yes.

Q I would like for you to, if you would, see if you can find that portion of the tape that was deleted and play it again for us.

THE COURT: Now, the jury heard the tape if it wasn't put into the transcript –

[538] MR. RICH: I want the jury to know which portion of the tape was deleted from the transcript, Your Honor.

THE COURT: Why? That will be for final argument.

MR. HANCOCK: Judge, I don't have any problem, if I can just ask a couple of questions.

THE COURT: In other words, there was a transcription made of the tape, and it was first furnished to you, and it was not in there.

MR. RICH: And what was on the tape was not supplied to me in the transcript.

THE COURT: All right.

MR. HANCOCK: I don't have any problem, if I can just ask a couple of questions. Who does the transcription?

THE WITNESS: We have a secretarial pool.

MR. HANCOCK: And they are supposed to take everything down; is that correct?

THE WITNESS: Well, what happens is: The tape is given to the secretarial pool, and they have machines, and they are supposed to listen to every word and type it onto the transcript, and apparently, what happened is they left out [539] a page, listening to the tape. They missed it somehow. I don't know exactly how, but it was on the tape, and the page is not in the transcript, so they didn't type it, for some reason.

MR. HANCOCK: And did you listen to the tape and compare it with the transcript?

THE WITNESS: We listened to the tape, but presently, we don't read the transcript word for word. This is the first that I realized that one page is not in the transcript.

MR. HANCOCK: Then you give the transcript to me; is that correct, and I supply everything to Mr. Rich?

THE WITNESS: Presumeably. [sic]

MR. HANCOCK: So, there's just a short portion that's not –

THE WITNESS: Yeah, about a page.

THE COURT: So, neither the State nor the defense had the page; right?

MR. RICH: No, not even Mark didn't have it, Your Honor.

Q (By Mr. Rich) Would you play it, Mark? I think it's stopped at the page.

MR. RICH: For you, Mr. Hancock, the [540] deletion apparently appears between nine and ten.

Q (By Mr. Rich) It's where it is now.

A So, I have to go back to –

Q This is where the tape is now.

A So, you just want me to play this?

Q I want you to go back to "I would like to clear up one point." You can use the original, Detective Schlein, if you wish.

A No, I have got to go back a bit; right?

Q Yes, rewind it.

(The following is a tape-recorded statement played in open Court, which portion of the record is not certified as to accuracy or content:)

"Q I would like to clear up one point. When this incident happened with Patty, when you were in the parking lot, and she was in the truck, and the fight started, and she struck out at you, and you wound up choking her, when this happened, was your brother with you?

A No, he was not.

Q So, your brother was not present when you killed the girl?

A No.

[541] Q Did you ever tell him about your killing the girl?

A I did not.

Q So, he didn't really – he wasn't there to see it, and you didn't actually tell him about it?

A True.

Q When you left the Banana Boat, at that time, where was Patty? We know that she was possibly dead at that point, but was she in the truck, or where was she at that point?

A She was inside the truck.

Q Basically, I guess where she entered, on the passenger's side?

A Yes.

Q Did there come a time when you moved her from the front to the back?

A No.

Q The only time that you moved her was when you took her out of the truck at that location, when you finally put her on the ground?

A Yes.

Q I remember when we talked the other day. You indicated that you covered her with [542] something. What was that you covered her with? Do you remember?

A Possibly a blanket. I'm not real sure.

Q Was it already in the truck?

A Yes."

(Thereupon, the tape-recorded portion was concluded.)

Q (By Mr. Rich) Now, that particular portion then picks up, Detective Schlein, right here, I suppose. the next word would be "Yes, go ahead. I'm sorry." Would you just play that?

A Yes.

"Q Yeah, go ahead. I'm sorry."

Q Now, would you look at your original. Do you have it with you?

A Yes.

Q Would you look at it on page – let's go to page nine.

MR. HANCOCK: Page nine?

MR. RICH: Yes.

MR. HANCOCK: The third statement?

MR. RICH: Third statement.

THE WITNESS: Do you have a white copy of statement number three?

[543] MR. HANCOCK: You can have my copy.

Q (By Mr. Rich) I would like to have the original. I think Kelly has it somewhere.

A I had it over there earlier today. Hang on. Okay.

Q You got the original?

A Well –

Q The third statement?

A See, when you say the original – when we get a typed transcript, we get four copies, each of a different color. So, this would be the first copy. The blue might be the second ribbon copy. The white copy is what we consider the first copy.

Q So, you are looking at the numbering there on page nine of your copy?

A I have page nine now.

Q Then it goes page ten.

A Yes.

Q So, there is no indication, even on your copy, that a whole page is missing?

A That's correct.

Q And what you do, pursuant to discover, is you send us a copy of your copy; right?

A Yes.

Q So, the first time then that you were [544] aware that a whole portion of this transcript was missing was today?

A Yes.

MR. RICH: I would ask, Your Honor, that the court reporter type this portion up, so it can be made an official part of the record, over the weekend, just that portion that was missing.

THE COURT: Okay.

Q (By Mr. Rich) Now, the first chance that you would ever have to come in contact and talk to Mr. Sochor was when he was in the Dekalb County Jail, and he was charged with a minor traffic violation?

A Yes.

Q And his name came up on the NCIC National Computer Intelligence, whatever it is?

A As I understand it, a fingerprint check was conducted, and the FBI was able to identify him.

Q Now, you knew about Dennis Sochor as a suspect when you developed the film that was given to you by Delta Harville; right?

A We were able to identify him, correct, from that photograph? [sic]

Q You are referring to State's Exhibit Number Three; right?

A Yes.

[545] Q Now, as a result of that picture, did you cause to have that published in the paper? Was that your idea?

A Yes.

Q And as a result of this being published, and I guess it was in the Sun Sentinel or Herald –

A I think it was all papers, and on television, if I am not mistaken.

Q You got a tip that someone knew who that was; right?

A We received a phone call from his employer.

Q His employer's wife?

A Yes.

Q So, what date was that that you received that phone call, Detective Schlein?

A I would say it was around January Third or Fourth.

Q So, around January the Third or Fourth, of 1982, you were on the look-out for an individual by name of Dennis Sochor?

A Yes.

Q And you had his – I assume you researched and found out his background and everything about him; right?

[546] A Yes.

Q So, on January the Third, Dennis Sochor then was a prime suspect in this case?

A Definitely was someone we wanted to speak to about the disappearance, yes.

Q Was he a prime suspect?

A Well, you have to remember, at that point, we didn't know precisely what we had. Technically, we had a missing person.

Q When did Dennis Sochor become a prime suspect?

A After speaking with his brother, it was pretty clear in our minds that we had a homicide.

Q You didn't speak to the brother, that was Feltgen and Lauria?

A Yes, they flew up to Michigan.

Q Basically, your involvement in this case is when you went up to Atlanta, and got these three statements; correct?

A Yes, sir.

Q Now, you advised him of all of his rights?

A Yes.

Q He understood his rights?

A Yes.

Q Did not need an attorney?

[547] A No.

Q Knew why you were there?

A Yes.

Q And he freely and voluntarily then gave you these statement more or less? I mean, he gave you free and voluntary statements?

A Yes.

Q Now, did he ever indicate to you whether or not he had sexual intercourse with Patty Gifford?

A He clearly indicated he did not.

Q Now, this is before he had a chance to confer with any attorney and concock [sic] any type of a story? He just clearly told you that he did not have sexual intercourse with Patty Gifford?

A Yes.

Q Did he indicate to you that Patty Gifford went with him in the truck voluntarily?

A Yes, I think initially what he was saying is that she entered the truck voluntarily.

Q And as a matter of fact, Gary Sochor even indicated that she voluntarily got in the truck with the two Sochor's; right?

A I'm not as clear about what Gary said.

Q Now, when you went up to Atlanta to talk to Dennis, did you have all of Gary Sochor's [548] statements?

A They would have already been taken. I don't think I've ever read them.

Q You never read them, when you went up to interrogate Dennis?

A No.

Q You were the lead investigator in this case, were you not?

A No.

Q You were Commander of Homicide, but –

A Lead investigator was John Feltgen.

Q Did Feltgen go with you up to Atlanta?

A No, sir.

Q Lauria did?

A Yes.

Q When you went up there, you had no idea, no inclination, or no hint as to what Gary Sochor had said?

A No, I had a general – a pretty clear idea what Gary had said. I just don't remember reading his statement. I was given information, but I really understood the way Gary described the crime happening.

Q Well, did you know that when they first went up to talk to Gary, and Lauria and Feltgen identified themselves, that Gary's first words were, [549] "Dennis didn't do it. Dennis didn't do it. I know Dennis didn't do it?" Were you aware of that?

A Words to the effect, yes.

Q That was the first thing that Gary said, before they even advised him of why they were there.

MR. HANCOCK: I would object. I don't know if he can testify here. It's hearsay on hearsay.

THE COURT: Sustained.

Q (By Mr. Rich) Well, you were aware of the investigation, you weren't living in a vacuum.

A No, no. that's what they told me was said.

Q And you are also aware that Gary Sochor, in the beginning, denied that Patty Gifford ever got into the vehicle?

A The synopsis that I had was that Gary and Dennis basically got her into the truck, and then drove her, while she was struggling, to a remote area, where she was then raped and murdered. That was the essence of what Gary –

Q That's what Gary said?

A Yes.

Q So, Gary then, as far as your investigation revealed, was never a suspect in this [550] homicide?

A I was uncertain of precisely what role each individual played, and as I sit here right now, I think in my own mind, I know precisely pretty much what happened, but I can't be a hundred percent exact on what Gary did or didn't do.

Q Well, my question is? [sic] Was Gary ever, in the beginning, in the inception of this investigation, was

Gary Sochor a suspect either as an aider and abettor, or principal in a first degree in this crime?

A Yes.

Q Was it made known as far as you are concerned or someone in your supervision and control was it made known to Gary Sochor that he was a suspect as an aider or abetter or as a principal in the first degree to this homicide?

A I can't say precisely what questioning was made, but I know he would have been.

MR. HANCOCK: Judge, I have an objection, if he is getting – you know, both of the other detectives testified. If he is saying something he knows from personal knowledge, I don't have an objection, but if he is surmising from what someone else told him, that's definitely hearsay on hearsay.

[551] THE COURT: Well, sustained. I assume that the Captain knows what is hearsay and what isn't, what you know of your own knowledge, and not what's in the report.

THE WITNESS: Well, I know that my investigators, when they conduct investigations, are suspicious of everyone, and clearly Gary was a suspect in the incident.

Q (By Mr. Rich) Now, when you first went up there, and you took the statement, the first statement, of Dennis, your statement started about 11:35 p.m., in the afternoon, Thursday, May 29th; is that correct? That's when the taped statement started; is that correct?

A No, it was later than that, I believe. One thirty, I believe, the first statement. I think you probably have statement number three there.

Q Well –

A That's how our transcribers get confused sometimes.

Q The first statement was taken on May – have you got your statements there?

A Yeah, May 29th, I think, one thirty-five p.m.

Q That's what I said.

[552] A You said 11:35.

Q If I did, I'm sorry. I have 1:35 p.m.

A Okay.

Q You want to get them out and refer to them anytime you want to? Now, what time did you first confront Dennis Sochor?

A About nine a.m., 9:10, 9:15, in the morning.

Q In the morning?

A Yes.

Q And from 9:15 a.m. to about 1:35 p.m., did you discuss this case with him that was off the tape?

A Yes.

Q For how many hours?

A Well, when you take away the time for lunch and bathroom and cigarettes, several hours of conversation occurred, before we went on tape.

Q And where was this conversation taking place?

A In an interview room in the Sheriff's Office.

Q So, what would be a fair estimate of the hours that you talked with Dennis, before you started taking a taped statement?

A I would say two-and-a-half to three hours.

[553] Q And during that time, those two and a half to three hours, did you discuss the case, of what Gary had said?

A No, not precisely what Gary had said. The beginning of our questioning was really more or less a series of denial. We spent a lot of time going around in circles. Initially, he denied being Dennis Sochor. He denied ever being in Fort Lauderdale. That took some time. When we made our break-through was when he initially admitted that he was Dennis Sochor and lived in Fort Lauderdale. That was the beginning of the admissions.

Q And during that period of time, did you also let Dennis know that they had already talked to Gary about this case?

A Yes. It wasn't immediately, but as we wore on with our interview, we definitely indicated to him that we had already spoken to Gary, then I think that helped to convince him to begin to tell us part of the story.

Q Did you advise Dennis that Gary had made a statement implicating Dennis?

A I don't remember the exact words, but we clearly indicated that we had gotten the whole story from Gary.

[554] Q And that Gary had blamed this homicide on Dennis; is that correct?

A Yes, Gary did.

Q Did you tell Dennis that Gary blamed –

A Not in those words. At that point in the interview, we indicated to him that we had the photograph, which he saw, and that we had already spoken to Gary, and as questioning goes, those were the keys at that time that began to, I guess encourage him to tell us part of the story.

Q Well, the question is: Did you indicate in your questioning for those two, two-and-a-half hours, that Gary had made a statement and implicated Dennis?

A Yes.

Q And that's when Dennis decided that he wanted to tell his story?

A Well, it began with the photograph, which we did not use immediately. The photograph was sort of irrefutable, and I guess did convince him that we knew he was living in Fort Lauderdale, and then when we indicated that we had already spoken to Gary. It was a gradual process. It didn't happen instantly.

Q I understand, but over the period of two-and-a-half hours, you gave Dennis the impression [555] and the inclination that Gary had already testified in the statement against his brother?

A Yes.

Q And that's when he started opening up, when he knew that Gary had made a statement?

A That was part of it, yes.

Q Now, when he first made that statement, he didn't have much of a recollection of what had happened that night, did he?

A If you are asking my opinion, I have an opinion on that.

Q Well, he didn't give you direction answers?

A Correct.

Q And you felt that he wasn't coming clean with you; right?

A Yes, sir.

Q That he knew more than he was telling you?

A Yes.

Q Did you ever get the impression that he might have been covering up for his brother?

A No.

Q Well, he says in the portion of the statement that we unfortunately don't have a transcript of, he says there that his brother was not even with [556] him.

A He clearly told me that in the third statement.

Q His brother was not with him?

A He never once admitted that his brother was there.

Q In fact, he said that he took his brother home, dropped him off, and then went back to the Banana Boat; right?

A Yeah, he indicated a couple of different things. He said at one point he said he dropped his brother off at the beach, and another point, he dropped him off at home, but clearly, he never admitted that Gary was with him, when the crime occurred.

Q And you have no explanation of why that particular portion of the transcript was deleted, except just inadvertance?

A I can assure you that it was an oversight by the secretary. They have a lot of work, and you are absolutely right, someone should have picked this up, but frankly, no one compared the transcript word for word with the original tape, but I can assure you that the girl that typed this up just made an oversight.

Q Let me ask you this question: Do you ever proofread these transcripts?

[557] A Well, I can tell you honestly, years ago, when I was a detective, I used to, but at this point now having – when I took the statements and delivered them over to the investigators, I truly didn't look at this transcript, and this is the first time that I realized that we are missing a page here.

Q and if I hadn't called your attention to it, you probably would have never gotten –

A I never would have realized that you didn't have the page that was on the tape that was missing.

Q During this, not only this first statement, but all these statements, it appeared that Dennis was very emotional and very much concerned about his brother, Gary.

A Dennis would really become emotional very, very quickly, depending on a question or location. He would go from calm to emotional quickly. I don't think he was very concerned about Gary. I think he was concerned about himself really, if the truth be known.

Q Well, in all of these three statements, he never indicated to you that he had sexual intercourse with Patty?

A He did not.

Q In all of these three statements, he never [558] indicated to you that he had abducted and kidnapped her, forcibly put her into the truck from the Banana Boat?

A That's that complicated question.

Q What he indicated was that after she I will say voluntarily got into his truck, she resisted his advances sexually, and then be choked her to death?

A That's what he admitted.

Q Then you brought him back to this area, and he tried to cooperate with you to discover the whereabouts of Patty's remains?

A Yes.

Q And he took you where, down I-95?

A We never went down I-95. We went west on 84, and then we went out west, but we didn't take – I take

that back. We took one road down south of I-95. I'm not sure what exit, combing the entire southwest, going up and down road that were very different.

Q But Gary told you that it was 84, and Dennis told you I-95?

A I don't remember exactly what Gary said. I know they both –

Q Just go with what Dennis – Dennis told you he drove south on I-95?

A Yes.

[559] Q And he was never able to give you any clues as to where the remains of Patty Gifford were?

A We never found her.

Q And for that matter, neither was Gary able to give you any clues as to where the remains of Patty Gifford were?

A Well, we never found them. We probably never will.

MR. RICH: Thank you. I have no further questions. Thank you.

MR. HANCOCK: Just a couple, Your Honor, with your permission.

REDIRECT EXAMINATION

BY MR. HANCOCK:

Q Now, you found out that he was picked up in Georgia. What name did you find out he was using?

A In Georgia, he was using the name John McGloffin, and with us, he used the name Michael Jacobs.

Q Now, did he ever indicate what he wanted from Patty?

A Yes.

Q What was that?

A Sex.

Q And what did he indicate that she had [560] done?

A She resisted, and that's what led to the choking.

Q Now, you indicated that, when Mr. Rich asked you about him coming clean, why didn't you feel he wasn't coming clean with you?

A I basically, after examining the case, feel we know pretty much what happened, and we don't believe to this day that he has admitted completely what happened for a variety of reasons.

Q What were those reasons?

A Well, in my experience, it's very difficult for someone who's committed a murder in many cases to admit it, number one, to the police. That's obviously difficult, but subconsciously, it's important to come out with a version that you can live with, with a certain amount of pride. In this particular case, as I sit here, I believe the girl was abducted, raped, and murdered out in a remote area. To admit to a rape and murder is much more vial [sic] than simply admitting that she was choked while resisting his advances, almost accidentally, and I

think it's important in Dennis' case, since he is so emotional, to admit a version that he can live with, and that's exactly the way we see it. There is no doubt in our mind that both he and Gary [561] were present, that she was raped and murdered.

MR. HANCOCK: Thank you.

RECROSS EXAMINATION

BY MR. RICH:

Q That's just your opinion, isn't it?

A Yes.

Q You have no proof or evidence to sustain that opinion, do you?

A No.

Q That's just your gut feeling?

A Just a -

Q You don't know beyond every exclusion of a reasonable doubt, do you?

A That's just my opinion.

MR. RICH: Thank you.

THE COURT: Anymore [sic] questions?

MR. HANCOCK: None by the State. Thank you for coming.

Your Honor, we will next call Michael Hickey, and he is on his way up. I guess I can call another witness. I will call Paul Jones.

Thereupon, the State of Florida, further to maintain the issues on their part to be maintained, called as a witness PAUL JONES, who, being first duly sworn, was examined and testified as follows:

* * *